

CREW | citizens for responsibility and ethics in washington

August 4, 2006

HHS Freedom of Information Officer
Room 645-F, Hubert H. Humphrey Building
Department of Health and Human Services
200 Independence Ave., 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.

Specifically, CREW seeks any and all documents and records from any office of the Department of Health and Human Services (“HHS”), its agencies, offices, regional offices and its components, described in the following categories:

1. All documents and records discussing in any way the July 2006 report, “False and Misleading Health Information Provided by Federally Funded Pregnancy Resource Centers,” prepared for Rep. Henry A. Waxman by the U.S. House of Representatives Committee on Government Reform.
2. All documents and records provided to staff of the House of Representatives who prepared the July 2006 report, “False and Misleading Health Information Provided by Federally Funded Pregnancy Resource Centers.”
3. All documents and records addressing any actions proposed or taken in response to the July 2006 report, “False and Misleading Health Information Provided by Federally Funded Pregnancy Centers.”
4. All documents and records of any communications with any other federal, state, or local governmental agencies regarding pregnancy resource centers (or crisis pregnancy centers) requesting or receiving grants through the Compassion Capital Fund.
5. All documents and records of any communications with the White House regarding pregnancy resource centers (or crisis pregnancy centers) requesting or receiving grants

through the Compassion Capital Fund.

6. All documents and records of any communications with the White House Office of Faith Based and Community Initiatives regarding pregnancy resource centers.
7. All documents and records of any communications with the U.S. Department of Justice regarding federal funding of pregnancy resource centers (or crisis pregnancy centers).
8. All documents and records of any communications with the Office of Management and Budget regarding federal funding of pregnancy resource centers (or crisis pregnancy centers).
9. All documents and records of any communication regarding the amount of federal funding available, recommended, or considered for pregnancy resource centers (or crisis pregnancy centers).
10. All documents and records of any communication regarding to what entity or location federal funds might be dispersed for pregnancy resource centers (or crisis pregnancy centers), including any breakdown of funds dispersed.
11. All documents and records identifying eligibility requirements, prerequisites, or standards for pregnancy resource centers (or crisis pregnancy centers) to receive federal funds.
12. All documents and records of any communications addressing the accuracy of information provided by federally funded pregnancy resource centers (or crisis pregnancy centers).
13. All documents and records of any communications addressing or monitoring in any way a segregation of federal funds provided to pregnancy resource centers (or crisis pregnancy centers) from use in any religious activities sponsored by the same grant recipients.

Please search responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs. 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 or notes of any such meetings and/or discussions.

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), 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. 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). Specifically, these records are likely to contribute to the public’s understanding of how the government uses taxpayer dollars in its grant-awarding process.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue code. CREW is committed to the protection of the citizen’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. CREW will analyze the information responsive to this request, and will likely share its analysis with the public, either through memorandums, reports or press releases. In addition, CREW will disseminate any documents it acquires from this request to the

public. A review of its website, www.citizensforethics.org, demonstrates that CREW has an established history of acquiring documents through the FOIA and publishing them on its website for public use. For example, CREW's website currently includes documents CREW acquired through a FOIA request of the State Department relating to the response to offers of foreign assistance after hurricane Katrina.

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

Conclusion

Please respond to this request in writing within twenty (20) working days as required 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 which are available within that time period.

If you have any questions about this request or foresee any problems in releasing fully the requested records within the twenty-day period, please call Sharon Eubanks 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 documents to Sharon Y. Eubanks, Citizens for Responsibility and Ethics in Washington, 1400 Eye Street, N.W., Suite 450, Washington, D.C. 20005.

Sincerely,



SHARON Y. EUBANKS
Senior Counsel