

# CREW | citizens for responsibility and ethics in washington

January 29, 2010

**By facsimile (202-622-3895) and first-class mail**

FOIA/PA Request  
Departmental Offices  
Disclosure Services  
Department of the Treasury  
Washington, DC 20220

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 the Treasury (“Treasury”) FOIA Regulation 31 C.F.R. Part 1.

Specifically, CREW seeks a memorandum concerning the GATT (General Agreement on Tariffs and Trade) negotiations most likely involving Uruguay and which CREW understands addresses negotiation of terms concerning “Understanding on Commitments in Financial Services.” CREW further understands this memorandum was prepared sometime between 1998 and 1999, and was sent from Timothy Geithner to Lawrence Summers. It is CREW’s understanding that Treasury recently released this document in response to a FOIA request from another public interest organization, most likely Public Citizen.

Given our understanding that Treasury already has released the memorandum we seek in response to another FOIA request, we do not anticipate Treasury will redact any portion not redacted in response to the previous request. If, however, it is Treasury’s position that any portion of the requested records is exempt from disclosure, CREW requests that you provide an explanation of any withholding that will “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, any such explanation “must discuss the consequences of supplying the sought-after-information.” King v. United States Dep’t of Justice, 830 F.2d 210, 223-24 (D.C. Cir. 1987).

### **Fee Waiver Request**

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and 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. 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, the public has a great interest in Mr. Geithner's actions prior to becoming Secretary of the Treasury, particularly those that relate to the industry he now regulates, his prior relationship with that industry, and actions he took on behalf of that industry that may not have been in the best interest of the public. We understand the document we seek centers on American International Group ("AIG"), a financial entity that has been of considerable public interest given the cost to the public of maintaining its solvency.

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), 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 31,158 visits in December 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 15,766 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 2,443 hits in December.

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 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>.

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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 record, 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