



CITIZENS FOR  
RESPONSIBILITY &  
ETHICS IN WASHINGTON

November 16, 2021

FOIA Officer  
Department of the Treasury  
1500 Pennsylvania Ave., N.W.  
Washington, DC 20220

**Re: Freedom of Information Act Request**

Dear FOIA Officer:

Citizens for Responsibility and Ethics in Washington (“CREW”) submits this request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and U.S. Department of the Treasury (“Treasury”) regulations.

Specifically, CREW requests the following records from January 6 to January 20, 2021:

1. All records sent or received by former Treasury Secretary Steven Mnuchin mentioning or relating to the 25th Amendment to the U.S. Constitution.
2. All emails, call logs, summaries, agendas, minutes, readouts, or other similar records reflecting discussions with former Secretary Mnuchin concerning the 25th Amendment.
3. All emails, call logs, summaries, agendas, minutes, readouts, or other similar records reflecting discussions between former Secretary Mnuchin and former Secretary of State Mike Pompeo.

The above request excludes agency records consisting solely of news articles, press clippings, and other publicly-available material, so long as the records include no accompanying discussion by agency officials.

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).

Please be advised that CREW intends to pursue all legal remedies to enforce its right under the FOIA to access these documents. Accordingly, because litigation reasonably is foreseeable, the agency should institute an agency-wide preservation hold on documents potentially responsive to this request.

### **Fee Waiver Request**

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

Recent press reports show that former Treasury Secretary Steven Mnuchin and former Secretary of State Mike Pompeo discussed invoking the 25th Amendment to remove former President Trump from office following the January 6 attack on the U.S. Capitol.<sup>1</sup> The idea was reportedly “quickly jettisoned” the next day.<sup>2</sup> Insofar as the requested records will shed light on whether two high-level cabinet officials did in fact discuss taking the extraordinary step of invoking the 25th Amendment to remove the President, there is substantial public interest in the records’ disclosure.

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 documents it acquires from this request to the public through its website, [www.citizensforethics.org](http://www.citizensforethics.org). 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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<sup>1</sup> Peter Wade, [Mnuchin and Pompeo Discussed a Plan to Oust Trump from Office on Jan. 6: Report](https://www.rollingstone.com/politics/politics-news/mnuchin-pompeo-trump-25th-amendment-1257958/), *Rolling Stone*, Nov. 15, 2021, <https://www.rollingstone.com/politics/politics-news/mnuchin-pompeo-trump-25th-amendment-1257958/>.

<sup>2</sup> *Id.*

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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 blogposts that report on and analyze 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 documents it receives under the FOIA on its website, which has 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 [nsus@citizensforethics.org](mailto:nsus@citizensforethics.org). Also, 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 at either [nsus@citizensforethics.org](mailto:nsus@citizensforethics.org) or Nikhel Sus, Citizens for Responsibility and Ethics in Washington, 1331 F St. NW, Suite 900, Washington, D.C. 20004. Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Nikhel Sus".

Nikhel Sus  
Senior Counsel