

August 27, 2020

**Submitted via FOIAOnline**

William Holzerland  
FOIA Officer  
Office of the Secretary  
U.S. Department of the Interior  
MS-7328, MIB  
1849 C Street, NW  
Washington, DC 20240

**Re: Expedited Freedom of Information Act Request**

Dear FOIA Officer:

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

Specifically, CREW requests:

1. Records sufficient to show the total costs of developing, producing, and disseminating the video entitled “Protecting our National Parks, Public Lands for Future Generations,” which was posted on Interior’s website at <https://www.doi.gov/video/protecting-our-national-parks-public-lands-future-generations> on August 6, 2020 (the “Video”). This request includes without limitation all receipts, invoices, and other records reflecting expenditures relating to the Video.
2. Records sufficient to identify the source(s) of funds Interior expended to develop, produce, and disseminate the Video.
3. Any final opinions, guidance, decisions, memoranda, or analyses issued by officials within Interior’s Departmental Ethics Office, the Office of the Solicitor, or the Office of Budget regarding the expenditure of government funds on the Video, including without limitation any analysis of whether such expenditures were consistent with the Antideficiency Act and applicable appropriations laws.
4. All external communications between Interior officials and any individual outside of the agency, including both governmental and private parties, relating to the development, production, or dissemination of the Video.

This request includes without limitation responsive correspondence, memoranda, letters, emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts,

notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any responsive attachments to emails and other records, and anyone who was cc'ed or bcc'ed on any emails.

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). If 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 FOIA to access these documents. Thus, because litigation is reasonably foreseeable, Interior 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 Interior 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).

Earlier this month, Interior released a video entitled “Protecting our National Parks, Public Lands for Future Generations” (the “Video”), posting it to YouTube, Facebook, and other platforms on August 5,<sup>1</sup> and Interior’s website on August 6.<sup>2</sup> As CREW has explained, the Video serves no discernible governmental purpose relating to Interior’s mission, and instead appears to be designed solely to promote President Trump amid the ongoing presidential campaign.<sup>3</sup> By using taxpayer funds to create what looks like a campaign ad for President Trump, Interior officials may have violated the Antideficiency Act and provisions of appropriations law barring the unauthorized use of appropriated funds “for publicity or propaganda purposes.”<sup>4</sup> The Video also appears to be part of a broader pattern of President

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<sup>1</sup> *See* <https://youtu.be/he1DMsqEi6I>;  
<https://www.facebook.com/watch/?v=759596168193731&extid=stkwawqzZ8h2dyvY>.

<sup>2</sup> *See* <https://www.doi.gov/video/protecting-our-national-parks-public-lands-future-generations>.

<sup>3</sup> *See* Walter Shaub, *Trump Propaganda Video Featuring the National Park Service Violates the Law*, *CREW*, Aug. 24, 2020, <https://www.citizensforethics.org/national-park-service-trump-propaganda-video/>.

<sup>4</sup> *See id.*

Trump utilizing Interior and the National Park Service for improper political purposes.<sup>5</sup> An Interior spokesman has reportedly confirmed that Interior’s ethics office and legal counsel approved the Video, but provided no explanation of the basis for that approval.<sup>6</sup>

The requested records would shed light on the total amount of taxpayer funds Interior expended on the Video, the source of those funds, whether agency ethics and legal officials in fact approved creation of the Video as well as the rationale for that approval, and communications with external parties regarding the Video. Because these records could shed light on violations of federal law by agency officials, the public has a compelling interest in their 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 any 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”).

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 the documents it receives under the FOIA on its website.

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

### **Expedited Processing Request**

CREW requests expedited processing of this FOIA request. Under Interior’s FOIA regulations, the agency will grant expedited processing if the requester demonstrates “a

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<sup>5</sup> Linnaea Honl-Stuenkel, *It’s Not Just USPS: Trump is Hijacking the Park Service to Boost his Re-election, Too*, *CREW*, Aug. 25, 2020, <https://www.citizensforethics.org/its-not-just-usps-trump-is-hijacking-the-park-service-to-boost-his-re-election-too/>.

<sup>6</sup> Rebecca Beitsch, *Park Service under fire for role in GOP convention*, *The Hill*, Aug. 27, 2020, <https://thehill.com/policy/energy-environment/513856-park-service-under-fire-for-role-in-gop-convention>.

compelling need for the records.” 43 C.F.R. § 2.20(a). A “compelling need” exists when “[t]here is an urgency to inform the public about an actual or alleged Federal Government activity and the request is made by a person primarily engaged in disseminating information.” *Id.* § 2.20(a)(2). Both conditions are met here.

First, there is an “urgent[] need” warranting expedited processing because the requested information relates to a current public debate on a matter of pressing national concern. *See Ctr. for Pub. Integrity v. DOD*, 411 F. Supp. 3d 5, 10 (D.D.C. 2019) (citing cases granting preliminary injunctions to compel expedited processing because “the records [were] sought to inform an imminent public debate”). As explained above in CREW’s request for a fee waiver, the requested records would shed light on an issue that has drawn widespread scrutiny from watchdog organizations and the media, involves potential violations of federal law by Interior officials, and appears to be part of a broader pattern of President Trump misusing Interior and the National Park Service for political purposes. The need to inform the public about these matters is particularly urgent because the Video appears to be an unlawful, taxpayer-funded advertisement promoting President Trump in advance of the presidential election, which is less than 70 days away. Insofar as the requested records may reveal that Interior officials misused federal funds to benefit President Trump’s reelection campaign, the public has an urgent need to obtain that information *prior to* the upcoming presidential election. *See Wash. Post v. DHS*, 459 F. Supp. 2d 61, 75 (D.D.C. 2006) (“Because the urgency with which the plaintiff makes its FOIA request is predicated on a matter of current national debate, due to the impending election, a likelihood for irreparable harm exists if the plaintiff’s FOIA request does not receive expedited treatment.”); *Ctr. for Pub. Integrity*, 411 F. Supp. 3d at 10 (recognizing “urgent[]” need to obtain information in advance of election in order to ensure a fully “informed electorate”). In other words, the requested information “has particular value that will be lost if not disseminated quickly.” 43 C.F.R. § 2.20(a)(2)(iii).

Second, CREW is “primarily engaged in disseminating information” to the public. As noted above, CREW routinely disseminates information—including documents and information received through its FOIA requests—through its website, [www.citizensforethics.org](http://www.citizensforethics.org), which receives tens of thousands of views every month. That 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.

I certify that the above explanation is true and correct to the best of my knowledge and belief.

### **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 requests for a fee waiver or expedited processing are denied, 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, 1101 K St., N.W., Suite 201, Washington, D.C. 20005.

Sincerely,

A handwritten signature in black ink, appearing to read "Nikhel Sus". The signature is fluid and cursive, with a large initial "N" and a long, sweeping tail.

Nikhel Sus  
Senior Counsel