

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN OVERSIGHT,
1030 15th Street NW, B255
Washington, DC 20005

Plaintiff,

v.

Case No. 25-cv-409

U.S. DEPARTMENT OF GOVERNMENT
EFFICIENCY,
736 Jackson Place NW
Washington, DC 20503

U.S. DOGE SERVICE,
736 Jackson Place NW
Washington, DC 20503

U.S. DOGE SERVICE TEMPORARY
ORGANIZATION,
736 Jackson Place NW
Washington, DC 20503

U.S. DIGITAL SERVICE,
736 Jackson Place NW
Washington, DC 20503

and

OFFICE OF MANAGEMENT AND BUDGET,
725 17th Street NW, Suite 9272
Washington, DC 20503

Defendants.

FIRST AMENDED COMPLAINT

1. Plaintiff American Oversight brings this action against the U.S. Department of Government Efficiency, U.S. DOGE Service, U.S. DOGE Service Temporary Organization, U.S. Digital Service, and the Office of Management and Budget (collectively, “Defendants”) under the

Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, seeking declaratory and injunctive relief to compel compliance with the requirements of FOIA in connection with FOIA requests for communications involving Elon Musk and his key staff.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. §§ 1331, 2201, and 2202.

3. Venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

4. Because Defendants have failed to comply with the applicable time-limit provisions of FOIA, American Oversight is deemed to have exhausted its administrative remedies pursuant to 5 U.S.C. § 552(a)(6)(C)(i) and is now entitled to judicial action requiring Defendants to process American Oversight’s eight FOIA requests, including two which must be processed on an expedited basis.

PARTIES

5. Plaintiff American Oversight is a nonpartisan, non-profit section 501(c)(3) organization. American Oversight is committed to promoting transparency in government, educating the public about government activities, and ensuring the accountability of government officials. Through research and FOIA requests, American Oversight uses the information it gathers, and its analysis of it, to educate the public about the activities and operations of the federal government through reports, published analyses, press releases, and other media. The organization is incorporated under the laws of the District of Columbia.

6. Defendant U.S. Department of Government Efficiency (“DOGE”) is a department of the executive branch of the U.S. government headquartered in Washington, D.C., and an agency of the federal government within the meaning of 5 U.S.C. § 552(f)(1). *See Establishing and Implementing the President’s “Department of Government Efficiency”*, Exec. Order No. 14,158, 90 Fed. Reg. 8441 (Jan. 20, 2025), <https://www.govinfo.gov/content/pkg/FR-2025-01-29/pdf/2025-02005.pdf>.

7. Defendant U.S. DOGE Service (“USDS”) is an establishment in the executive branch of the U.S. government headquartered in Washington, D.C., and an agency of the federal government within the meaning of 5 U.S.C. § 552(f)(1). *See id.*

8. Defendant U.S. DOGE Service Temporary Organization is an establishment in the executive branch of the U.S. government headquartered in Washington, D.C., and an agency of the federal government within the meaning of 5 U.S.C. § 552(f)(1). *See id.*

9. Defendant U.S. Digital Service was an establishment in the executive branch of the U.S. government headquartered in Washington, D.C., and an agency of the federal government within the meaning of 5 U.S.C. § 552(f)(1), renamed and reorganized as USDS pursuant to President Trump’s January 20, 2025 executive order. *See id.*

10. As further demonstrated below, because Defendants U.S. Digital Service, DOGE, USDS, and U.S. DOGE Service Temporary Organization each have duties and authority that go beyond simply advising the President, they are all subject to FOIA.

11. Upon information and belief, Defendant DOGE has possession, custody, and control of records responsive to American Oversight’s FOIA request.

12. Upon information and belief, Defendant USDS has possession, custody, and control of records responsive to American Oversight’s request.

13. Upon information and belief, Defendant U.S. DOGE Service Temporary Organization has possession, custody, and control of records responsive to American Oversight's request.

14. Upon information and belief, Defendant U.S. Digital Service has possession, custody, and control of records responsive to American Oversight's request.

15. Defendant Office of Management and Budget ("OMB") is an agency of the federal government within the meaning of 5 U.S.C. § 552(f)(1), headquartered in Washington, D.C. Upon information and belief, OMB has possession, custody, and control of records responsive to American Oversight's request.

STATEMENT OF FACTS

DOGE's Formation

16. In November 2024, a week after the presidential election, then President-elect Donald Trump announced that Elon Musk would be named the head of the Department of Government Efficiency, which Trump referred to as "DOGE."¹

17. The acronym appears to reference the Musk-backed cryptocurrency DOGE coin.²

18. Elon Musk spent nearly \$300 million helping Trump win the election.³

19. DOGE's structure and function were initially unclear, including whether it would be housed within the federal government or as an external entity.⁴

¹ Elena Moore et al., *Trump Taps Musk to Lead a 'Department of Government Efficiency' with Ramaswamy*, NPR (Nov. 12, 2024, 9:03 PM), <https://www.npr.org/2024/11/12/g-s1-33972/trump-elon-musk-vivek-ramaswamy-doge-government-efficiency-deep-state>.

² *Id.*

³ David Wright & Alex Leeds-Matthews, *Elon Musk Spent More Than \$290 Million on the 2024 Election, Year-end FEC Filings Show*, CNN (Feb. 1, 2025 10:46 AM), <https://www.cnn.com/2025/02/01/politics/elon-musk-2024-election-spending-millions/index.html>.

⁴ Moore et al., *supra* note 1.

20. During the presidential transition period, the DOGE team operated out of the Washington, D.C. office of the Tesla car company.⁵

21. Musk is Tesla's Chief Executive Officer and largest shareholder.

22. During the presidential transition period, Musk and DOGE representatives communicated with federal agencies concerning DOGE's plans for those agencies in the new administration.⁶

23. Upon taking office, Trump issued an executive order "to implement the President's DOGE Agenda, by modernizing Federal technology and software to maximize governmental efficiency and productivity."⁷ This first DOGE executive order renames the U.S. Digital Service as the U.S. DOGE Service and creates a temporary organization within it called the "U.S. DOGE Service Temporary Organization," "headed by the USDS Administrator" and "dedicated to advancing the President's 18-month DOGE agenda." Under the executive order, the U.S. DOGE Service Temporary Organization sunsets on July 4, 2026.

24. The first DOGE executive order further requires each Agency Head to establish a DOGE Team within each agency of the executive branch.

25. For purposes of this suit, Defendants DOGE, USDS and U.S. DOGE Service Temporary Organization are referred to collectively as "DOGE."

⁵ Eric Katz, *DOGE Agency Deployments Raise Ethical and Influence Concerns*, Gov't Exec., (Jan. 15, 2025), <https://www.govexec.com/management/2025/01/doge-agency-deployments-raise-ethical-and-influence-concerns/402204/>.

⁶ Faiz Siddiqui et al., *DOGE is Dispatching Agents Across U.S. Government*, Wash. Post (Jan. 10, 2025), <https://www.washingtonpost.com/business/2025/01/10/musk-ramaswamy-doge-federal-agencies/>.

⁷ See *Establishing and Implementing the President's "Department of Government Efficiency"*, Exec. Order No. 14,158, 90 Fed. Reg. 8441 (Jan. 20, 2025), <https://www.govinfo.gov/content/pkg/FR-2025-01-29/pdf/2025-02005.pdf>.

26. Trump issued a second DOGE executive order on February 11, 2025, that directs Agency Heads to develop “a data-driven plan, in consultation with its DOGE Team Lead, to ensure new career appointment hires are in highest-need areas,” and requires that new career appointment hiring decisions “be made in consultation with the agency’s DOGE Team Lead.”⁸

27. As the Honorable John D. Bates in this District recently found, based on Supreme Court precedent, the first two DOGE executive orders, sworn statements by Agency officials, and the DOGE defendants in that case, “USDS appears to do much more than advise and assist the President,” and is an “agency” as defined under the FOIA, the Privacy Act, the Administrative Procedures Act, and the Economy Act.⁹

28. Trump’s third DOGE-related executive order,¹⁰ issued February 26, 2025, provides further evidence of DOGE’s agency status. It requires each Agency Head to work with their embedded DOGE Team Leads to: “build a centralized technological system” with the capability to “pause and rapidly review any payment for which the approving employee has not submitted a brief, written justification”; review existing contracts and terminate or modify them “to promote efficiency and advance the policies of [the] Administration”; provide monthly reports to the USDS Administrator justifying “non-essential travel” expenditures; and freeze all credit cards held by

⁸ See *Implementing the President’s “Department of Government Efficiency” Workforce Optimization Initiative*, Exec. Order No. 14,210 at § 3, 90 Fed. Reg. 9669 (Feb. 11, 2025), <https://www.govinfo.gov/content/pkg/FR-2025-02-14/pdf/2025-02762.pdf> [hereinafter, “Second DOGE EO”]

⁹ *AFL-CIO v. Dep’t of Lab.*, No. 25-cv-339 (JDB), 2025 WL 542825, at *3 (D.D.C. Feb. 14, 2025). Noting that USDS’s “strong claim” to agency status under statutory definitions was contradicted by its attorneys’ insistence that it is *not* an agency under FOIA, the Privacy Act or the APA, but *is* an agency under the Economy Act, Judge Bates observed that “USDS becomes, in defendants’ view, a Goldilocks entity: not an agency when it is burdensome but an agency when it is convenient.” *Id.*

¹⁰ See *Implementing the President’s ‘Department of Government Efficiency’ Cost Efficiency Initiative*, Exec. Order No. 14,222, 90 Fed. Reg. 11095 (Feb. 26, 2025), <https://www.govinfo.gov/content/pkg/FR-2025-03-03/pdf/2025-03527.pdf>.

agency employees for 30 days. It also requires each DOGE Team Lead to report monthly to the USDS Administrator on “contracting activities,” including “all payment justifications.”¹¹

29. DOGE operates under Musk’s control to issue formal, legally authoritative commands to entities or persons within or outside the executive branch.

30. As DOGE’s leader, Musk enjoys substantial free reign to implement the “DOGE agenda” as he sees fit, issuing commands to entities and persons within the executive branch—commands that agency officials and Cabinet secretaries treat as legally authoritative.

31. For example, as alleged more fully below, DOGE has given executive branch officials directives regarding disbursement of funds/funding freezes—even when such directives conflicted with White House approval.

32. DOGE has also issued directives to Agencies, including the FBI, pertaining to personnel actions.

33. DOGE has also commanded Agencies, including U.S. Treasury Department and the U.S. Agency for International Development (“USAID”), to allow DOGE’s access to highly sensitive data systems.

34. DOGE has contracts with non-Executive Office of the President entities under authority of the Economy Act.

35. DOGE oversees certain activities of other federal agencies and provides guidance and supervision to those agencies.

36. DOGE and Musk operate independently of the President and senior White House officials.¹²

¹¹ *Id.*

¹² See Gabriel Sherman, *Is Donald Trump Afraid of Elon Musk?*, Vanity Fair (Feb. 7, 2025), <https://www.vanityfair.com/news/story/is-donald-trump-afraid-of-elon-musk> (“According to one

37. The White House is often unaware of Musk and DOGE's activities until Musk announces them publicly.¹³

38. For instance, even after the White House Chief of Staff Susie Wiles instructed Musk to keep her informed of his plans, Musk used OPM systems to send an email to 2.3 million federal employees without clearing his plan through any White House officials.¹⁴

39. The message instructed federal employees to send an email documenting their accomplishments for the previous week and said that any nonresponse would be considered a resignation.¹⁵

40. In sum, DOGE does more than merely advise and assist the President, and in fact wields substantial authority independently of the President.

Musk's Leadership of DOGE

41. On information and belief, Elon Musk has directed DOGE's work from its inception.

42. On information and belief, Musk continues to direct DOGE's work.

43. Musk himself, Trump, and other White House officials have repeatedly and publicly emphasized Musk's control over DOGE.

Trump ally, Musk is not fully briefing White House chief of staff Susie Wiles about his plans and the White House is effectively in the dark.”); Katherine Faulders & Will Steakin, *Musk's Whirlwind Approach Sparks Rift in the White House and in Trump's Orbit: Sources*, ABC News (Feb. 25, 2025, 3:50 PM), <https://abcnews.go.com/Politics/musks-whirlwind-approach-sparks-rift-white-house-trumps/story?id=119179219> (“When billionaire Elon Musk posted on X last weekend that all federal employees would soon receive an email demanding details of their work from the past week, senior White House officials -- who had not been fully briefed on the plan -- were initially caught off guard.”).

¹³ See *id.*

¹⁴ Nandita Bose et al., *Ultimatum to Federal Workers Raises Tensions Between Musk, White House Staff*, Reuters (Feb. 27, 2025 6:09 AM), <https://www.reuters.com/world/us/ultimatum-federal-workers-raises-tensions-between-musk-white-house-staff-2025-02-27/>.

¹⁵ *Id.*

44. On February 5, 2025, White House Press Secretary Karoline Leavitt stated that Trump “was elected with a mandate from the American people to make this government more efficient. He campaigned across this country with Elon Musk vowing that Elon was going to head up the Department of Government Efficiency.”¹⁶

45. In the same February 5 press conference, Leavitt, when asked about Musk’s potential conflicts of interest, stated that “if Elon Musk comes across a conflict of interest with the contracts and the funding that DOGE is overseeing, then Elon will excuse himself from those contracts.”¹⁷

46. Although the White House told the Honorable Tanya S. Chutkan in this District on February 17, 2025 that Musk is neither the DOGE Administrator nor a DOGE employee and “has no actual or formal authority to make government decisions himself—including personnel decisions at individual agencies,”¹⁸ that statement is contradicted by Musk’s public statements and other evidence, including that Musk directed mass “What did you do last week?” emails to federal employees requiring them to respond or face termination.¹⁹

47. The White House’s representation is also contradicted by Trump’s own public statements. Just three days after the White House’s representations to Judge Chutkan, Trump told

¹⁶ White House, *Press Secretary Karoline Leavitt Briefs Members of the Media*, YouTube (Feb. 5, 2025), <https://www.youtube.com/live/0QJrwxIZGW8?t=1450s> [24:10 – 24:21].

¹⁷ *Id.*

¹⁸ Notice by Elon Musk *et al.* at 1, and Decl. of Joshua Fisher, *State of New Mexico et al. v. Elon Musk et al.*, D.D.C. Case No. 1:25-cv-00429-TSC, Feb. 17, 2025, ECF 24.

¹⁹ Andrea Hsu, *A Pattern Emerges in Elon Musk's Federal Shakeup: 'Break First, Ask Questions Later'*, NPR (Feb. 26, 2025), <https://www.npr.org/2025/02/26/nx-s1-5308659/federal-employees-musk-trump-chaos>.

an audience of investors and company executives in Miami, “I signed an order creating the Department of Government Efficiency and put a man named Elon Musk in charge.”²⁰

48. President Trump and Press Secretary Leavitt have repeatedly talked about Musk as the functional leader of DOGE.

49. On February 22, 2025, Trump posted on the site Truth Social, which is owned by Trump Media & Technology Group, “ELON IS DOING A GREAT JOB, BUT I WOULD LIKE TO SEE HIM GET MORE AGGRESSIVE.”²¹

50. Musk responded on X (formerly Twitter) by posting a screenshot of Trump’s message and adding, “Will do, Mr. President!”²²

51. On February 25, 2025, Leavitt reiterated Trump’s desire for Musk to be “more aggressive,” explaining that this was “because DOGE thus far has proven incredibly successful in making our government more efficient.”²³

52. In the same February 25 briefing, when asked to identify the USDS Administrator, Leavitt stated that “the President tasked Elon Musk to oversee the DOGE effort.”²⁴

²⁰ Andrea Shalal and Nandita Bose, *Trump Appears to Contradict White House, Says Elon Musk in Charge of DOGE*, REUTERS (Feb. 20, 2025 12:27 PM), <https://www.reuters.com/world/us/trump-appears-contradict-white-house-says-elon-musk-charge-doge-2025-02-20/>.

²¹ Rachel Wolf, *Trump Says Elon Musk Should Be ‘More Aggressive’ on DOGE Cuts, Musk Responds*, FOX BUSINESS (Feb. 22, 2025 11:32 AM), <https://www.foxbusiness.com/politics/trump-says-elon-musk-should-more-aggressive-doge-cuts>.

²² *Id.*; see also Elon Musk (@elonmusk), X (formerly Twitter) (Feb. 22, 2025 11:08 AM), <https://x.com/elonmusk/status/1893332118752706661>.

²³ White House, *Press Secretary Karoline Leavitt Briefs Members of the Media*, YouTube (Feb. 25, 2025), <https://www.youtube.com/live/Vl-9pOiAl0?feature=shared&t=1000> [16:40-16:45].

²⁴ *Id.*

53. On February 26, 2025, Musk attended and spoke at length at the first Cabinet meeting of the new administration.²⁵

54. In explaining Musk's attendance at the Cabinet meeting, Leavitt stated that "Elon is working with the Cabinet secretaries and their staff every single day to identify waste and fraud and abuse at these respective agencies. All of the Cabinet secretaries take the advice and direction of DOGE."²⁶

55. Most recently, on March 4, 2025, President Trump in an address to Congress confirmed that Musk leads DOGE, stating ". . . I have created the brand new Department of Government Efficiency . . . [w]hich is headed by Elon Musk, who is in the gallery tonight."²⁷

DOGE's Directives to Agencies

56. Since at least January 20, 2025, DOGE staff have accessed the offices of at least fifteen (15) executive branch agencies.²⁸

²⁵ Katherine Doyle, *Trump and Elon Musk Dominate His First Cabinet Meeting*, NBC News (Feb. 26, 2025, 1:04 PM), <https://www.nbcnews.com/politics/trump-administration/trump-elon-musk-dominate-first-cabinet-meeting-rcna193836>.

²⁶ Caitlyn Frolo, *5 Things to Know about Trump's First Cabinet Meeting*, ABC 4 News (updated Feb. 26, 2025 11:38 PM), <https://abcnews4.com/news/nation-world/trump-holds-first-cabinet-meeting-of-second-term-with-elon-musk-in-attendance-doge-politics-email-waste-policy-administration>.

²⁷ *Full Speech: President Trump's Joint Address to Congress*, YouTube (Mar. 4, 2025), <https://www.youtube.com/watch?v=WVOvmHUu8Vw> (highlighting DOGE and Musk's role from 22:26-22:49); *see also Full Transcript of President Trump's Speech to Congress*, NY Times (Mar. 5, 2025, 4:08 AM), <https://www.nytimes.com/2025/03/04/us/politics/transcript-trump-speech-congress.html>.

²⁸ *See, e.g.*, Wash. Post staff, *Elon Musk's DOGE Has Swept into 15 Federal Agencies. Here's What to Know*, Wash. Post, (Feb. 8, 2025), <https://www.washingtonpost.com/business/2025/02/08/elon-musk-doge-federal-agencies-cuts-employees/>.

57. With respect to these agencies, DOGE staff have (a) gained access to computer systems previously available only to agency employees, (b) rendered decisions related to agency payments or agency personnel, and (c) ordered agency supervisors or staff to take various actions.

58. For example, on or around February 1, 2025, DOGE personnel insisted that they be granted access to systems at the U.S. Agency for International Development (“USAID”), threatening to call law enforcement when officials at USAID refused.²⁹

59. DOGE staffers did subsequently gain access to USAID systems, including those containing classified information.³⁰

60. DOGE personnel halted certain agency payments, overruling Secretary of State Marco Rubio.

61. On January 28, Rubio issued an “Emergency Humanitarian Waiver to Foreign Assistance Pause,” to allow continued payments for “life-saving humanitarian assistance programs.”³¹ But despite Rubio’s—as well as USAID managers’ and the White House’s—express authorization for these payments, DOGE personnel blocked the payments.³²

62. Musk then publicly boasted about the independent power DOGE exerted over USAID.

²⁹ Jennifer Hansler et al., *Elon Musk Said Donald Trump Agreed USAID Needs to be ‘Shut Down’*, CNN (Feb. 3, 2025, 7:48 AM), <https://www.cnn.com/2025/02/02/politics/usaid-officials-leave-musk-doge/index.html>.

³⁰ *See id.*

³¹ Secretary Marco Rubio, Dep’t of State, *Emergency Humanitarian Waiver to Foreign Assistance Pause* (Jan. 28, 2025), <https://www.state.gov/wp-content/uploads/2025/01/Final-Signed-Emergency-Humanitarian-Waiver.pdf>

³² Matt Bai, *The blinding contempt of the DOGE bros*, Wash. Post, Feb. 24, 2025, <http://wapo.st/3XrTgyn>.

63. On Monday, February 3, 2025, at 1:54 AM, Musk posted on X (formerly Twitter), “We spent the weekend feeding USAID into the wood chipper. Could gone [sic] to some great parties. Did that instead.”³³

64. As his X post indicates, Musk, as head of DOGE, directed the reduction of USAID’s workforce and freezing of funds.

65. DOGE members have also gained access to sensitive systems at the U.S. Department of the Treasury, including the Payment Automation Manager and Secure Payment System, which process over \$5 trillion annually.³⁴

66. According to media reports, the payment system “handles tax refunds, Social Security benefits, veterans’ benefits and much more,” and includes “an expansive network of Americans’ personal and financial data.”³⁵

67. A threat intelligence team at the Treasury Department recommended that DOGE staffers’ access to these systems be monitored as an “insider threat,” urging that their access be suspended because, according to the threat assessment team’s email, “[t]here is reporting at other

³³ Elon Musk (@elonmusk), X (formerly Twitter) (Feb. 3, 2025 1:54 AM), <https://x.com/elonmusk/status/1886307316804263979>.

³⁴ Andrew Duehren et al., *Elon Musk’s Team Now Has Access to Treasury’s Payments System*, N.Y. Times (Feb. 1, 2025), <https://www.nytimes.com/2025/02/01/us/politics/elon-musk-doge-federal-payments-system.html>; Vittoria Elliott et al., *A 25-Year-Old With Elon Musk Ties Has Direct Access to the Federal Payment System*, WIRED (Feb. 4, 2025, 1:02 AM), <https://www.wired.com/story/elon-musk-associate-bfs-federal-payment-system/>.

³⁵ Assoc. Press, *Federal Judge Blocks DOGE from Accessing Sensitive U.S. Treasury Department Material*, NPR (updated Feb 8, 2025, 2:01 AM), <https://www.npr.org/2025/02/08/g-s1-47350/states-sue-to-stop-doge-accessing-personal-data>.

federal agencies indicating that DOGE members have performed unauthorized changes and locked civil servants out of the sensitive systems they gained access to.”³⁶

68. DOGE staff have also gained editor access to systems at the National Oceanic and Atmospheric Administration.³⁷

69. Similarly, DOGE staff have gained access to systems at the Consumer Financial Protection Bureau (“CFPB”) that “manage the agency’s human resources, procurement, and finance systems” and they have “taken control of the bureau’s social media accounts, locking out career staff.”³⁸

70. Upon information and belief, DOGE seeks to dismantle the CFPB, as well as the Department of Education and USAID.³⁹

71. In an interview aired before the Super Bowl, on February 9, 2025, Trump stated his intention to have Musk and DOGE investigate military spending.⁴⁰

72. DOGE has placed its own staff at various federal agencies to direct and coordinate those agencies’ operations.

³⁶ Vittoria Elliott & Leah Feiger, *A US Treasury Threat Intelligence Analysis Designates DOGE Staff as ‘Insider Threat’*, WIRED (Feb. 7, 2025, 2:47 PM), <https://www.wired.com/story/treasury-bfs-doge-insider-threat/>.

³⁷ Tim Marchman & Matt Giles, *This DOGE Engineer Has Access to the National Oceanic and Atmospheric Administration*, WIRED (Feb. 5, 2025, 2:58 PM), <https://www.wired.com/story/doge-engineer-noaa-data-google-musk-climate-project-2025/>.

³⁸ Bobby Allyn et al., *Musk’s Team Takes Control of Key Systems at Consumer Financial Protection Bureau*, NPR (Feb 7, 2025, 11:48 PM), <https://www.npr.org/2025/02/07/g-s1-47322/musks-team-takes-control-of-key-systems-at-consumer-financial-protection-bureau>.

³⁹ Laurel Wamsley, *New CFPB Chief Closes Headquarters, Tells All Staff They Must Not Do ‘Any Work Tasks’*, NPR (Feb. 10, 2025, 10:47 AM), <https://www.npr.org/2025/02/08/nx-s1-5290914/russell-vought-cfpb-doge-access-musk>.

⁴⁰ Mike Wendling, *Trump Defends Musk and Says Doge Will Look at Military Spending*, BBC (Feb. 9, 2025), <https://www.bbc.com/news/articles/czrljmyz7xo>.

73. On February 14, 2025, the official @DOGE account on X (formerly Twitter) posted: “Great kickoff with @DeptofDefense. Looking forward to working together to safely save taxpayer dollars and eliminate waste, fraud, and abuse.”⁴¹

74. Musk reposted this from his own X (formerly Twitter) account @elonmusk.

75. At least two DOGE staffers, Edward Coristine and Kyle Schutt, were put on staff at the Cybersecurity and Infrastructure Security Agency.⁴²

76. At least four DOGE staffers, Luke Farritor, Rachel Riley, Jeremy Lewin, and Clark Minor, have been put on staff at the National Institutes of Health (“NIH”).⁴³

77. Three of the DOGE staff at NIH “are employed in the department that controls the NIH’s central electronic business system, which includes finance, budget, procurement, a property-management system, and a grant-tracking system.”⁴⁴

78. DOGE directed the mass layoffs of employees at the U.S. Department of Agriculture (“USDA”), including employees working on the federal government’s response to H5N1 avian flu.⁴⁵

79. The USDA subsequently described some of those layoffs as “accidental,” and tried to rescind those terminations.⁴⁶

⁴¹ @DOGE, X (formerly Twitter) (Feb. 14, 2025, 11:38 PM), <https://x.com/DOGE/status/1890621621448167497>.

⁴² Kim Zetter, *DOGE Now Has Access to the Top US Cybersecurity Agency*, WIRED (Feb. 19, 2025, 8:59 PM), <https://www.wired.com/story/doge-cisa-coristine-cybersecurity/>.

⁴³ Matt Reynolds, *DOGE is Inside the National Institutes of Health’s Finance System*, WIRED (Feb. 24, 2025 1:36 PM), <https://www.wired.com/story/doge-is-inside-the-national-institutes-of-health-nih/>.

⁴⁴ *See id.*

⁴⁵ Allan Smith et al., *USDA Says It Accidentally Fired Officials Working on Bird Flu and Is Now Trying to Rehire Them*, NBC News (updated Feb. 18, 2025 6:31 PM), <https://www.nbcnews.com/politics/doge/usda-accidentally-fired-officials-bird-flu-rehire-rcna192716>.

⁴⁶ *See id.*

80. DOGE staffers at OMB are working on software called “AutoRIF” that will automate the mass firing of federal workers across the federal government.⁴⁷

Musk and DOGE’s Communications and Records Retention Practices

81. On information and belief, DOGE staff, including Musk, have used non-governmental messaging systems such as Signal to communicate regarding official matters since at least December 2024.⁴⁸

82. On information and belief, DOGE staff, including Musk, have used Signal to send messages regarding official government matters that were only visible to the recipients and/or were automatically deleted after hours, days, or weeks.⁴⁹

83. On information and belief, federal records responsive to Plaintiff’s requests—including Signal and Slack communications—have already been removed or destroyed or may soon be.

⁴⁷ Makena Kelly, *DOGE Is Working on Software That Automates the Firing of Government Workers*, WIRED (Feb. 25, 2025, 12:02 PM), <https://www.wired.com/story/doge-autorif-mass-firing-government-workers/>.

⁴⁸ See, e.g., Ken Thomas et al., *Inside the Early Days of DOGE*, Wall St. J. (Jan. 17, 2025, 5:00 AM), https://www.wsj.com/politics/policy/doge-federal-reform-musk-ramaswamy-118a3833?reflink=desktopwebshare_permalink; Theodore Schleifer & Madeleine Ngo, *Inside Elon Musk’s Plan for DOGE to Slash Government Costs*, N.Y. Times (updated Jan. 23, 2025), <https://www.nytimes.com/2025/01/12/us/politics/elon-musk-doge-government-trump.html?partner=slack&smid=sl-share>; see also Jason Koebler & Joseph Cox, *DOGE Employees Ordered to Stop Using Slack While Agency Transitions to a Records System Not Subject to FOIA*, 404 Media (Feb. 5, 2025, 11:49 AM), <https://www.404media.co/doge-employees-ordered-to-stop-using-slack-while-agency-transitions-to-a-records-system-not-subject-to-foia/>. For an explanation of ephemeral messaging, see, e.g., Set and Manage Disappearing Messages, SIGNAL, <https://support.signal.org/hc/en-us/articles/360007320771-Set-and-manage-disappearing-messages>; Stories, Signal, <https://support.signal.org/hc/en-us/articles/5008009166234-Stories>; Disappearing Messages with a Linked Device, Signal, <https://support.signal.org/hc/en-us/articles/5532268300186-Disappearing-Messages-with-a-Linked-Device>; Ephemeral Messages, Slack API, <https://api.slack.com/surfaces/messages>.

⁴⁹ See Schleifer & Ngo, *supra* note 48.

84. On January 22, 2025, American Oversight sent a letter to Elon Musk in his capacity as DOGE's apparent leader, reminding him of the department's obligations to preserve federal records pursuant to the Federal Records Act ("FRA").⁵⁰ That same day, American Oversight sent similar letters to the Departments of Defense, Health and Human Services, Homeland Security, Treasury, Veterans Affairs, the Office of Management and Budget, and the National Archives and Records Administration, warning them of the potential destruction or removal of DOGE communications.⁵¹

85. To date, American Oversight has received no response to any of the January 22, 2025 letters referenced in above paragraph 83.

86. On information and belief, the former U.S. Digital Service set up a Slack system that was configured to ensure that the agency was able to comply with its records preservation obligations under FOIA and the FRA.

87. In February 2025, however, DOGE employees were instructed to stop using Slack in order to migrate communications to a system that would be administered within the Executive Office of the President.⁵²

88. DOGE advisor Katie Miller publicly responded to concerns that the "migration" of communications systems was intended to bar the public's access to DOGE records, stating that DOGE is subject to the Presidential Records Act, which, if true, would mean the public would not

⁵⁰ Letter from Ron Fein, Chief Counsel, American Oversight, to Elon Musk, DOGE, *Potential Unlawful Destruction or Removal of DOGE Communications* (Jan. 22, 2025), <https://americanoversight.org/featureddocument/american-oversight-letters-to-elon-musk-and-multiple-federal-agencies-warning-against-the-unlawful-destruction-or-removal-of-doge-communications/>.

⁵¹ *Id.*

⁵² Koebler & Cox, *supra* note 48.

have access to DOGE records until 2034—five years after Trump leaves office and eight years after Defendant U.S. DOGE Service Temporary Organization is set to disband.⁵³

89. On information and belief, DOGE is not preserving its records in compliance with FOIA and the Federal Records Act.

90. The likely failure by Defendants to maintain federal records as required by law underscores the urgency and importance of American Oversight’s requests in this case.

DOGE Funding

91. The Trump Administration has funded DOGE by invoking the Economy Act.⁵⁴

92. As of February 20, 2025, DOGE had received nearly \$40 million in funding that was transferred from other agencies.⁵⁵

93. The Economy Act may only be invoked by “[t]he head of an agency or major organizational unit within an agency.” 31 U.S.C. § 1535(a); *see also* 48 C.F.R. § 17.502-2(a) (“The Economy Act (31 U.S.C. 1535) authorizes agencies to enter into agreements to obtain supplies or services from another agency. . . . The Economy Act also provides authority for placement of orders between major organizational units within an agency[.]”).

⁵³ Brent D. Griffiths, *Elon Musk said DOGE Would Provide 'Maximum Transparency.' It May Be Years Before Its Records Are Public*, Business Insider (Feb. 7, 2025 4:59 AM), <https://www.businessinsider.com/musk-doge-records-public-information-foia-presidential-records-act-2025-2>.

⁵⁴ Avi Asher-Schapiro et al., *DOGE’s Millions: As Musk and Trump Gut Government, Their Ax-Cutting Agency Gets Cash Infusion*, ProPublica (Feb. 20, 2025, 5:33 PM), <https://www.propublica.org/article/doge-trump-musk-funding-foia-congress-transparency>.

⁵⁵ *Id.*

Expedited Requests Concerning Inspectors General Firings

94. On January 24, 2025, President Trump removed inspectors general from at least seventeen (17) federal agencies, citing “changing priorities” as the reason for their terminations.⁵⁶

95. Members of nearly two dozen House committees subsequently signed a joint letter to President Trump defending the independence of inspectors general and pointing out that removing them without notifying Congress violates the law: “Firing inspectors general without due cause is antithetical to good government, undermines the proper stewardship of taxpayer dollars, and degrades the federal government’s ability to function effectively and efficiently,” the letter reads. “We urge you to withdraw your unlawful action and comply with your obligations to the American people.”⁵⁷

96. On January 30, 2025, American Oversight submitted a FOIA request to both USDS and OMB bearing internal tracking number OMB-25-0252 (“IG Key Terms Request”), seeking the following records from January 20 through January 28, 2025:

All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) **and text messages** (including complete text message threads or conversations) **or messages on messaging platforms** (such as Signal, Slack, GChat or Google Hangouts, Lync, Skype, X (formerly Twitter) direct messages, Facebook messages, WhatsApp, Telegram, or Parler) sent or received by any of the officials listed below and containing any of the key terms listed below.

USDS Officials:

- i. Elon Musk
- ii. Anyone serving as Elon Musk’s chief of staff, secretary, scheduler, assistant, senior advisor, and/or special advisor

⁵⁶ Katherine Faulders et al., *Trump Administration Cites ‘Changing Priorities’ in Emails that Fired Inspectors General*, ABC News (Jan. 26, 2025, 3:45 PM) <https://abcnews.go.com/Politics/trump-administration-cites-changing-priorities-emails-fired-inspectors/story?id=118123086>.

⁵⁷ David Nakamura et al., *Trump Defends Ousting at Least 15 Independent Inspectors General in Late-Night Purge*, Wash. Post, (Jan. 25, 2025), <https://www.washingtonpost.com/politics/2025/01/24/trump-fire-inspectors-general-federal-agencies/>.

Key Terms

- a. Inspector
- b. IG
- c. OIG
- d. “notice requirement”
- e. Massacre
- f. Remov*
- g. Terminat*
- h. Dismiss*
- i. Fir*
- j. “Non-duty status”
- k. Inquiry
- l. Purg*

Please note that American Oversight is using the asterisk (*) to designate the standard use of “wildcards” in the search for responsive records. For example, a search for “remov*” would return all of the following: remove, removal, removing, etc. If your agency is unable to search for wildcards, please advise so that we may specifically include the variations that we would like searched.

For text messages or messages on other messaging platforms, American Oversight requests that full text message threads/conversations be produced. For example, if an official sent or received a text message containing any of the key terms listed above, the complete thread/conversation for the timeframe listed below should be produced, and not just the message containing the key term.

See Exhibit A.

97. Also on January 30, 2025, American Oversight submitted a separate FOIA request to both USDS and OMB bearing internal tracking number OMB-25-0253 (“IG Communications Request”), seeking the following records from January 20 through January 28, 2025:

All records reflecting communications (including emails, email attachments, text messages, messages on messaging platforms (such as Signal, Slack, GChat or Google Hangouts, Lync, Skype, or WhatsApp), telephone call logs, calendar invitations, calendar entries, meeting notices, meeting agendas, informational material, draft legislation, talking points, any handwritten or electronic notes taken during any oral communications, summaries of any oral communications, or other materials) between (a) any of the officials listed below and (b) the external individuals and entities listed below.

USDS Officials:

- i. Elon Musk

- ii. Anyone serving as Elon Musk's chief of staff, secretary, scheduler, assistant, senior advisor, and/or special advisor

External Entities:

1. Anyone communicating from the House of Representatives, including but not limited to email addresses ending in @mail.house.gov
2. Anyone communicating from the office of Senator Chuck Grassley (including email communications from email addresses ending in @grassley.senate.gov)
3. Anyone communicating from the office of Senator Josh Hawley (including email communications from email addresses ending in @hawley.senate.gov)
4. Anyone communicating from the office of Senator Rand Paul (including email communications from email addresses ending in @paul.senate.gov)
5. Anyone communication from the Office of Senator Gary Peters (including email communications from email addresses ending in @peters.senate.gov)
6. Anyone communicating from the Senate Homeland Security and Governmental Affairs Committee (including email communications from email addresses ending in @hsgac.senate.gov)
7. Anyone communicating from the Office of Senator Dick Durbin (including from email addresses ending in @durbin.senate.gov)
8. Anyone communicating from the Senate Committee on the Judiciary (including from email addresses ending in @judiciary.senate.gov)
9. Anyone communicating from the office of Senator James Risch (including email communications from email addresses ending in @risch.senate.gov)
10. Anyone communicating from the office of Senator Jeanne Shaheen (including email communications from email addresses ending in @shaheen.senate.gov)
11. Anyone communicating from the Senate Foreign Relations Committee (including email communications from email addresses ending in @foreign.senate.gov)
12. Anyone communicating from the office of Senator Ted Cruz (including email communications from email addresses ending in @cruz.senate.gov)
13. Anyone communicating from the office of Senator Maria Cantwell (including email communications from email addresses ending in @cantwell.senate.gov)
14. Anyone communicating from the Senate Commerce, Science, and Transportation Committee (including email communications from email addresses ending in @commerce.senate.gov)
15. Anyone communicating from the office of Senator Tim Scott (including email communications from email addresses ending in @scott.senate.gov)

16. Anyone communicating from the office of Senator Elizabeth Warren (including email communications from email addresses ending in @warren.senate.gov)
17. Anyone communicating from the Senate Banking, Housing, and Urban Affairs Committee (including email communications from email addresses ending in @banking.senate.gov)
18. Anyone communicating from the office of Senator Moore Capito (including email communications from email addresses ending in @capito.senate.gov)
19. Anyone communicating from the office of Senator Sheldon Whitehouse (including email communications from email addresses ending in @whitehouse.senate.gov)
20. Anyone communicating from the Senate Environment and Public Works Committee (including email communications from email addresses ending in @epw.senate.gov)
21. Anyone communicating from the office of Senator Bill Cassidy (including email communications from email addresses ending in @cassidy.senate.gov)
22. Anyone communicating from the office of Senator Bernie Sanders (including email communications from email addresses ending in @sanders.senate.gov)
23. Anyone communicating from the Senate Health, Education, Labor, and Pensions Committee (including email communications from email addresses ending in @help.senate.gov)
24. Anyone communicating from the office of Senator Mike Crapo (including email communications from email addresses ending in @crapo.senate.gov)
25. Anyone communicating from the office of Senator Ron Wyden (including email communications from email addresses ending in @wyden.senate.gov)
26. Anyone communicating from the Senate Finance Committee (including email communications from email addresses ending in @finance.senate.gov)
27. Anyone communicating from the office of Senator Roger Wicker (including email communications from email addresses ending in @wicker.senate.gov)
28. Anyone communicating from the office of Senator Jack Reed (including email communications from email addresses ending in @reed.senate.gov)
29. Anyone communicating from the Senate Armed Services Committee (including email communications from email addresses ending in @armed-services.senate.gov)
30. Anyone communicating from the office of Senator Jerry Moran (including email communications from email addresses ending in @moran.senate.gov)

31. Anyone communicating from the office of Senator Richard Blumenthal (including email communications from email addresses ending in @blumenthal.senate.gov)
32. Anyone communicating from the Senate Veterans' Affairs Committee (including email communications from email addresses ending in @veterans.senate.gov)
33. Anyone communicating from the office of Senator Mike Lee (including email communications from email addresses ending in @lee.senate.gov)
34. Anyone communicating from the office of Senator Martin Heinrich (including email communications from email addresses ending in @heinrich.senate.gov)
35. Anyone communicating from the Senate Energy and Natural Resources Committee (including email communications from email addresses ending in @energy.senate.gov)
36. Anyone communicating from the office of Senator John Boozman (including email communications from email addresses ending in @boozman.senate.gov)
37. Anyone communicating from the office of Senator Amy Klobuchar (including email communications from email addresses ending in @klobuchar.senate.gov)
38. Anyone communicating from the Senate Agriculture, Nutrition, and Forestry Committee (including email communications from email addresses ending in @agriculture.senate.gov)
39. Anyone communicating from the office of Senator Joni Ernst (including email communications from email addresses ending in @ernst.senate.gov)
40. Anyone communicating from the office of Senator Edward Markey (including email communications from email addresses ending in @markey.senate.gov)
41. Anyone communicating from the Senate Small Business and Entrepreneurship Committee (including email communications from email addresses ending in @sbc.senate.gov)

See Exhibit B.

98. Because of the “urgency to inform the public about an actual or alleged Federal Government activity,” 28 C.F.R. § 16.5(e)(1)(ii), and the fact that the terminations constitute a “matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity that affect public confidence,” *id.* § 16.5(e)(1)(iv), American Oversight requested expedited processing of its IG Key Terms and IG Communications Requests, and

included in both requests the certifications required by 5 U.S.C. § 552(a)(6)(E)(i)(1) and 5 C.F.R. § 1303.40(e)(3), along with multiple citations to media reports supporting those certifications. *See* Exs. A and B.

99. OMB acknowledged receipt of American Oversight's IG Key Terms Request by email on January 31, 2025, and assigned it OMB FOIA tracking number 2025-613. *See* Exhibit C.

100. OMB also acknowledged receipt of American Oversight's IG Communications Request by separate email on January 31, 2025, and assigned it OMB FOIA tracking number 2025-614. *See* Exhibit D.

101. The two January 31, 2025 emails from Defendant OMB are the only communications American Oversight has received to date from any of the Defendants concerning the IG Key Terms Request and the IG Communications Request.

102. American Oversight has received no communications from DOGE regarding the IG Key Terms Request or the IG Communications Request.

103. Neither of OMB's January 31, 2025 emails address American Oversight's requests for expedited processing, nor do they address the scope of the documents Defendants intend to produce and/or withhold, nor the reasons for such withholdings. *See* Exs. C and D.

104. As American Oversight certified in its January 30, 2025 requests to USDS and OMB, the requested records are urgently needed to inform the public about this matter of widespread and exceptional media interest which concerns government activity that raises questions about the government's integrity and affects public confidence. *See* Exs. A and B.

105. As American Oversight also certified in its January 30, 2025 requests, American Oversight is an organization primarily engaged in the dissemination of information to the public. *See id.*

106. Plaintiff's expedited processing requests explained how American Oversight met the statutory and regulatory standards and included a non-exhaustive list of multiple citations to media reports that support American Oversight's certifications. *See id.*

107. More than ten days have passed since American Oversight submitted its IG Key Terms and IG Communications requests, and Defendants have failed to comply with 5 U.S.C. § 552(a)(6)(E)(ii).

108. More than twenty working days have passed since American Oversight submitted all requests at issue here, and Defendants have failed to comply with 5 U.S.C. § 552(a)(6)(A).

Requests seeking U.S. Digital Service Communications

109. On February 3, 2025, American Oversight sent two FOIA requests to DOGE and OMB seeking pre-inauguration records of the U.S. Digital Service.

110. The first of these requests, bearing internal tracking number OMB-USDS-25-0263 (hereinafter "Pre-inauguration Communications Request"), sought the following records from November 12, 2024, through January 20, 2025:

All records reflecting communications (including emails, email attachments, text messages, messages on messaging platforms—such as X (formerly Twitter), Slack, GChat or Google Hangouts, Lync, Skype, WhatsApp, Signal, Parler, Microsoft Teams, or Facebook Messenger—telephone call logs, calendar invitations/entries, meeting notices, meeting agendas, informational material, talking points, any handwritten or electronic notes taken during any oral communications, summaries of any oral communications, or other materials) between (a) any of the USDS officials listed below and (b) anyone communicating on behalf of the nongovernmental Department of Government Efficiency (DOGE).

USDS Officials:

- i. Former USDS Administrator Mina Hsiang, and/or anyone communicating on her behalf such as an assistant, secretary, and/or chief of staff
- ii. Former USDS Senior Advisor Andrew Michael Nacin, and/or anyone communicating on his behalf such as an assistant, secretary, and/or chief of staff

See Exhibit E.

111. OMB acknowledged this request by email on February 4, 2025, and assigned it agency tracking number 2025-642. See Exhibit F.

112. American Oversight has received no further communications regarding the Pre-inauguration Communications Request from any Defendant.

113. The second request American Oversight sent on February 3, 2025, bearing internal tracking number OMB-USDS-25-0264 (hereinafter “Pre-inauguration Key Terms Request”) sought the following records from November 12, 2024, through January 20, 2025:

All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) **and text messages** (including complete text message threads or conversations) **or messages on messaging platforms** (such as Signal, Slack, GChat or Google Hangouts, Lync, Skype, X (formerly Twitter) direct messages, Facebook messages, WhatsApp, Telegram, or Parler) sent or received by any of the USDS officials listed below and containing any of the key terms listed below.

USDS Officials:

- i. Former USDS Administrator Mina Hsiang, and/or anyone communicating on her behalf such as an assistant, secretary, and/or chief of staff
- ii. Former USDS Senior Advisor Andrew Michael Nacin, and/or anyone communicating on his behalf such as an assistant, secretary, and/or chief of staff

Key Terms

- a. “Department of Government Efficiency”
- b. DOGE
- c. “Space X”
- d. “SpaceX”
- e. “Star link”
- f. “Starlink”
- g. Elon
- h. Lonsdale
- i. Musk
- j. Nardelli
- k. Palantir
- l. Ramaswamy
- m. Roviant
- n. Tesla
- o. Vivek

- p. “Boring Company”
- q. Neuralink
- r. McGinley
- s. Signal
- t. xAI
- u. x.AI
- v. “Katie Miller”
- w. Thiel
- x. “Amanda Scales”
- y. Baisini

For text messages or messages on other messaging platforms, American Oversight requests that full text message threads/conversations be produced. For example, if an official sent or received a text message containing any of the key terms listed above, the complete thread/conversation for the timeframe listed below should be produced, and not just the message containing the key term.

See Exhibit G.

114. OMB acknowledged this request by email on February 4, 2025, and assigned it agency tracking number 2025-641. *See* Exhibit H.

115. American Oversight has received no further communications regarding this request from any Defendant.

Requests for Post-Inauguration Records

116. On February 3, 2025, American Oversight sent four additional requests to DOGE and OMB seeking records that post-date the inauguration of the current administration.

117. The first of these requests, bearing internal tracking number OMB-USDS-25-0265 (hereinafter “Musk Calendar Request”), sought the following records:

All calendars or calendar entries for Elon Musk, including any calendars maintained on his behalf, from January 20, 2025, through the date the search is conducted.

American Oversight requests that the calendars be produced in a format that includes all invitees, any notes, and all attachments.

Please do not limit your search to electronic calendars; we request the production of any calendar — paper or electronic, whether on government- issued or personal

devices — used to track or coordinate how Musk allocates his time on agency business.

This search should include any calendars associated with Musk’s email accounts, as well as any official calendars maintained for him, including by an aide, assistant, or scheduler.

See Exhibit I.

118. OMB acknowledged this request by email on February 4, 2025, assigning it agency tracking number 2025-643. See attached Exhibit J.

119. American Oversight has received no further communications regarding the Musk Calendar Request from any Defendant.

120. American Oversight’s second February 3, 2025, request for post-inauguration records, bearing internal tracking number OMB-USDS-25-0266 (hereinafter “Musk External Communications Request”), sought the following records from January 20, 2025, through the date the search is conducted:

1. All text messages (including complete text message threads or conversations) or messages on messaging platforms (such as Signal, Slack, GChat or Google Hangouts, Lync, Skype, X (formerly Twitter) direct messages, Facebook messages, WhatsApp, Telegram, or Parler) sent or received by Elon Musk.
2. All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) between (a) any of the officials listed below and (b) any of the external individuals and entities listed below (or anyone communicating on their behalf, including, but not limited to, anyone communicating from an email address ending in the listed domains).

USDS Officials:

- iii. Elon Musk
- iv. Anyone serving as Elon Musk’s chief of staff, secretary, scheduler, assistant, senior advisor, and/or special advisor

External Entities:

- a. Alliance Defending Freedom (adflegal.org)
- b. America First Legal (aflegal.org, athospr.com)
- c. America First Policy Institute (americafirstpolicy.com)
- d. Heritage Foundation (heritage.org, heritageaction.com)

- e. Project 2025 (project2025.org)
- f. Tom Zhu, Omead Afshar, Brandon Ehrhart and/or anyone communicating on behalf of Tesla (tesla.com)
- g. Gwynne Shotwell, Michael Sagan, or anyone else communicating on behalf of SpaceX (spacex.com)
- h. Starlink (starlink.com)
- i. The Boring Company (boringcompany.com)
- j. xAI (x.ai)
- k. X (x.com, e.X.com)
- l. Neuralink (neuralink.com)
- m. Palantir (palantir.com)
- n. John Sullivan (john.sullivan@the-sl-lawfirm.com)
- o. Judd Stone (judd@stonehilton.com)
- p. Antonio Gracias or anyone else communicating on behalf of Valor Equity Partners (valorep.com)
- q. Vivek Ramaswamy
- r. Bill McGinley

See Exhibit K.

121. OMB acknowledged this request by email on February 4, 2025, assigning it agency tracking number 2025-644. *See Exhibit L.*

122. American Oversight has received no further communications from any Defendant regarding the Musk External Communications Request.

123. American Oversight's third February 3, 2025 request for post-inauguration records, bearing internal tracking number OMB-USDS-25-0267 (hereinafter "USDS Staffing Request"), sought the following records from January 20, 2025, through the date the search is conducted:

1. Records sufficient to identify all employees who entered a position at the USDS since January 20, 2025, and the title or position of each employee. To the extent that such individuals have held multiple titles or positions since January 20, 2025, this request includes records sufficient to identify each title or position.
2. For each individual identified in response to part one of this request:
 - a. The resume provided by the individual to the agency in connection with determining the appropriate salary for the individual, or if that is not available, a recent resume contained within the agency's records.

- b. Any conflicts or ethics waivers or authorizations issued for the individual, including authorizations pursuant to 5 C.F.R. § 2635.502.
- c. Copies of any SF-50 forms for the individual reflecting any change in position or title, including when the employee enters or leaves a position. We have no objection to the redaction of home addresses, telephone numbers, or social security numbers from the SF-50s.

For part two of this request, American Oversight does not object to the redaction of past salary information or contact information — including addresses, telephone numbers, and email addresses — for the employee or associated references. However, employment, education, and professional association information is not exempt, and American Oversight objects to any redactions of such information.

See Exhibit M.

124. OMB acknowledged this request by email on February 4, 2025, assigning it agency tracking number 2025-645. *See Exhibit N.*

125. American Oversight has received no further communications regarding the USDS Staffing Request from any Defendant.

126. American Oversight’s fourth February 3, 2025 request for post-inauguration records, bearing internal tracking number OMB-USDS-25-0268 (hereinafter “Musk Employment Request”), sought the following records:

Records sufficient to identify Elon Musk’s job title, grade level, position description, and salary, including but not limited to Elon Musk’s form SF-50.

See Exhibit O.

127. OMB acknowledged this request by email on February 5, 2025, assigning it agency tracking number 2025-646. *See Exhibit P.*

128. American Oversight has received no further communications regarding the Musk Employment Request from any Defendant.

Exhaustion of Administrative Remedies

129. Defendants failed to respond to American Oversight's request to expedite processing of its IG Key Terms and IG Communications requests within ten (10) calendar days, and American Oversight is not required to exhaust its administrative remedies with respect to its request to expedite processing.

130. Further, as of the date of this Amended Complaint, Defendants have failed to: (a) notify American Oversight of a final determination regarding any of the requests at issue here, including the scope of responsive records Defendants intend to produce or withhold and the reasons for any withholdings; (b) produce the requested records or demonstrate that the requested records are lawfully exempt from production.

131. Through Defendants' failures to respond to American Oversight's FOIA requests within the time period required by law, American Oversight has constructively exhausted its administrative remedies and seeks immediate judicial review.

COUNT I
Violation of FOIA, 5 U.S.C. § 552
Failure to Grant Expedited Processing

132. American Oversight repeats the allegations in the foregoing paragraphs and incorporates them as though fully set forth herein.

133. American Oversight properly requested records within Defendants' possession, custody, and control on an expedited basis.

134. Defendants failed to issue a determination on the request for expedited processing within the timeframe set by statute.

135. Defendant U.S. Department of Government Efficiency is a department or agency subject to FOIA and must process FOIA requests on an expedited basis pursuant to the requirements of FOIA and agency regulations.

136. Defendant U.S. DOGE Service is a department or agency subject to FOIA and must process FOIA requests on an expedited basis pursuant to the requirements of FOIA and agency regulations.

137. Defendant U.S. DOGE Service Temporary Organization is a department or agency subject to FOIA and must process FOIA requests on an expedited basis pursuant to the requirements of FOIA and agency regulations.

138. Defendant U.S. Digital Service is a department or agency subject to FOIA and must process FOIA requests on an expedited basis pursuant to the requirements of FOIA and agency regulations.

139. Defendant OMB is an agency subject to FOIA and must process FOIA requests on an expedited basis pursuant to the requirements of FOIA and agency regulations.

140. American Oversight's IG Key Terms Request justifies expedited processing under FOIA and 5 C.F.R. § 1303.40(e)(1)(ii); (iv).

141. American Oversight's IG Communications Request justifies expedited processing under FOIA and 5 C.F.R. § 1303.40(e)(1)(ii); (iv).

142. American Oversight is entitled to declaratory and injunctive relief requiring Defendants to grant expedited processing of American Oversight's IG Key Terms Request.

143. American Oversight is entitled to declaratory and injunctive relief requiring Defendants to grant expedited processing of American Oversight's IG Communications Request.

COUNT II

Violation of FOIA, 5 U.S.C. § 552

Failure to Conduct Adequate Searches for Responsive Records

144. American Oversight repeats the allegations in the foregoing paragraphs and incorporates them as though fully set forth herein.

145. American Oversight properly requested records within Defendants' possession, custody, and control.

146. Defendant OMB has failed to promptly review agency records for the purpose of locating those records that are responsive to the Pre-inauguration Key Terms Request, Pre-inauguration Communications Request, Musk Calendar Request, Musk External Communications Request, USDS Staffing Request, Musk Employment Request, IG Key Terms Request, and IG Communications Request (collectively "American Oversight's FOIA Requests").

147. Defendant DOGE has failed to promptly review agency records for the purpose of locating those records that are responsive to American Oversight's FOIA Requests.

148. Defendant USDS has failed to promptly review agency records for the purpose of locating those records that are responsive to American Oversight's FOIA Requests.

149. Defendant U.S. DOGE Service Temporary Organization has failed to promptly review agency records for the purpose of locating those records that are responsive to American Oversight's FOIA Requests.

150. Defendant U.S. Digital Service has failed to promptly review agency records for the purpose of locating those records that are responsive to American Oversight's FOIA Requests.

151. Each Defendant's failure to conduct an adequate search for responsive records violates FOIA and applicable regulations.

152. Plaintiff American Oversight is therefore entitled to injunctive and declaratory relief requiring Defendants to promptly search for and produce records responsive to American Oversight's FOIA Requests.

COUNT III
Violation of FOIA, 5 U.S.C. § 552
Wrongful Withholding of Non-Exempt Responsive Records

153. American Oversight repeats the allegations in the foregoing paragraphs and incorporates them as though fully set forth herein.

154. American Oversight properly requested records within Defendants' possession, custody, and control.

155. Defendant OMB is an agency subject to FOIA and must therefore release in response to a FOIA request any non-exempt records and provide a lawful reason for withholding any materials within no more than twenty (20) working days of receipt of each of American Oversight's requests.

156. Defendant DOGE is subject to FOIA and must therefore release in response to a FOIA request any non-exempt records and provide a lawful reason for withholding any materials within no more than twenty (20) working days of receipt of each of American Oversight's requests.

157. Defendant USDS is subject to FOIA and must therefore release in response to a FOIA request any non-exempt records and provide a lawful reason for withholding any materials within no more than twenty (20) working days of receipt of each of American Oversight's requests.

158. Defendant U.S. DOGE Service Temporary Organization is subject to FOIA and must therefore release in response to a FOIA request any non-exempt records and provide a lawful reason for withholding any materials within no more than twenty (20) working days of receipt of each of American Oversight's requests.

159. Defendant USDS is subject to FOIA and must therefore release in response to a FOIA request any non-exempt records and provide a lawful reason for withholding any materials within no more than twenty (20) working days.

160. Defendants are wrongfully withholding non-exempt agency records requested by American Oversight by failing to produce non-exempt records responsive to American Oversight's FOIA Requests.

161. Defendants are wrongfully withholding non-exempt agency records requested by American Oversight by failing to segregate exempt information in otherwise non-exempt records responsive to American Oversight's FOIA Requests.

162. Defendants' failure to provide all non-exempt responsive records violates FOIA and applicable regulations.

163. Plaintiff American Oversight is therefore entitled to declaratory and injunctive relief requiring Defendants to promptly produce all non-exempt records responsive to American Oversight's FOIA Requests and provide indexes justifying the withholding of any responsive records withheld under claim of exemption.

REQUESTED RELIEF

WHEREFORE, American Oversight respectfully requests the Court:

- (1) Order Defendants to process the IG Key Terms Request and IG Communications Request on an expedited basis;
- (2) Order Defendants to conduct a search reasonably calculated to uncover all records responsive to American Oversight's FOIA Requests;

- (3) Order Defendants to produce, within twenty days of the Court's order, any and all non-exempt records responsive to American Oversight's FOIA Requests, and *Vaughn* indexes of any responsive records withheld under claim of exemption;
- (4) Enjoin Defendants from continuing to withhold any and all non-exempt records responsive to American Oversight's FOIA Requests;
- (5) Award American Oversight the costs of this proceeding, including reasonable attorneys' fees and other litigation costs reasonably incurred in this action, pursuant to 5 U.S.C. § 552(a)(4)(E); and
- (6) Grant American Oversight such other relief as the Court deems just and proper.

Dated: March 5, 2025

Respectfully submitted,

/s/ Elizabeth Haddix

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