



December 16, 2024

Ray J. McNerney
FOIA Officer
Office of FOIA Services
Securities and Exchange Commission
100 F Street, NE, Mail Stop 2465
Washington, DC 20549-2465

Re: Freedom of Information Act Request

Dear Officer McNerney,

State Democracy Defenders Fund (“SDDF”) respectfully submits the following request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 *et seq.* and U.S. Securities and Exchange Commission (“SEC”) regulations.

Specifically, SDDF requests all records from November 5, 2024 to when this request is processed, of:

1. Communications between Elon Musk, Vivek Ramaswamy, or any agents acting on behalf of Elon Musk, Vivek Ramaswamy, and any [agency] employee or office, concerning the Department of Government Efficiency (“DOGE”), or the anticipated activities of DOGE. This includes direct correspondences as well as communications facilitated by third parties.
2. Communications between agency offices or personnel and individuals who identify themselves as employees, contractors, representatives, or affiliates of DOGE.
3. Communications between agency offices or personnel and individuals who are members of the Trump presidential transition, or who hold themselves out as members of the Trump presidential transition, regarding DOGE or the anticipated activities of DOGE.
4. All internal agency communications, documents, correspondence, or discussions regarding DOGE, and Elon Musk or Vivek Ramaswamy in relation to DOGE and their capacities as future leaders of DOGE. This includes, but is not limited to, meeting agendas, minutes, notes, memos, briefing materials, drafts, presentations, or analyses created, received, or reviewed by SEC personnel.

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes,

photographs, data, and graphical material. Our request includes without limitation all correspondence, 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 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, SDDF 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.¹ 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.² Please be advised that SDDF 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 SEC regulations SDDF requests a waiver of fees associated with processing this request for records. The requested records relate to matters of major public interest, as they may reflect a potential attempt to restructure the executive branch to serve Mr. Musk's and, to a lesser extent, Mr. Ramaswamy's individual pecuniary interests. Disclosure is in the public interest because it will likely contribute to a better understanding by SDDF and the general public about the intent, operations, and activities of these potential policymakers. Furthermore, the request is entirely for non-commercial purposes.

The Department of Government Efficiency ("DOGE"), is a planned advisory committee³ chaired by Elon Musk and Vivek Ramaswamy, and charged with paving the way for the Trump Administration to "dismantle Government Bureaucracy, slash excess regulations, cut wasteful expenditures, and restructure Federal Agencies."⁴ Through DOGE, Musk and Ramaswamy are poised to potentially wield significant influence over the structure and operations of the federal

¹ See 5 U.S.C. § 552(b), <https://crsreports.congress.gov/product/pdf/R/R47984>.

² See *Mead Data Central v. U.S. Dep't of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

³ It is not yet clear what legal structure this "department" will assume. However, it is likely to be a presidential advisory committee subject to the requirements of the Federal Advisory Committee Act ("FACA"), 5 U.S.C. § 10 *et seq.*

⁴ Statement of President-elect Trump, posted by Trump transition spokesperson Karoline Leavitt (@karolineleavitt), TWITTER (Nov. 12, 2024, 7:34 PM), <https://x.com/karolineleavitt/status/1856495794171301965>.

government.⁵ This mechanism may allow Musk and Ramaswamy to exercise that authority with little oversight and accountability, as DOGE may likely fall within the boundaries of the Federal Advisory Committee Act (“FACA”), a law designed to ensure that committees with little to no authority provide the President with nonpartisan, neutral advice. Simply put: FACA may not provide the guardrails that DOGE should have.

That is because DOGE is uniquely problematic: it could be a vehicle for the richest man in the world,⁶ whose businesses have received billions of dollars in government contracts,⁷ to attempt to completely re-imagine the executive branch and the regulatory state.⁸ DOGE appears positioned to help the President-elect, “push the legal boundaries of the executive branch’s power over federal spending and regulations,” and advance sweeping reforms with potentially far-reaching consequences for federal operations.⁹ Such a department should require, at the very least, congressional establishment, professional staffing, ethical guardrails, and oversight mechanisms. At the very least, this unconventional structure and the vague parameters of its authority demand rigorous scrutiny.

The arrangement raises significant concerns about conflicts of interest and the potential for abuse of power. These concerns mainly revolve around Elon Musk, whose massive financial relationship with the federal government, as a contractor and as owner of many highly regulated companies, is unique in the country’s history. His companies secured billions in federal contracts,¹⁰ are the subject of at least 20 recent federal investigations or reviews,¹¹ and have been the more than a dozen disputes with federal agencies, including the Federal Aviation

⁵ For a comprehensive overview of DOGE and its powers under FACA See generally *DOGE Details: The Knowns and Unknowns of Trump’s Cost-Cutting Board*, GIBSON DUNN (Dec. 6, 2024), <https://www.gibsondunn.com/doge-details-the-knowns-and-unknowns-of-trump-cost-cutting-board/>.

⁶ Ramishah Maruf, *Elon Musk becomes the first person to reach a net worth of \$400 billion*, CNN (Dec. 11, 2024, 4:34 PM), <https://www.cnn.com/2024/12/11/business/elon-musk-400-billion-net-worth/index.html>.

⁷ Al Root, *How Elon Musk Gets Money From the Federal Government*, BARRON’S (Nov. 11, 2024, 9:35 AM), <https://www.barrons.com/articles/elon-musk-companies-money-federal-government-0683b7d9>

⁸ See Elon Musk and Vivek Ramaswamy, *Elon Musk and Vivek Ramaswamy: The DOGE Plan to Reform Government*, WALL ST. J.: OPINION (Nov. 20, 2024, 12:33 PM), <https://www.wsj.com/opinion/musk-and-ramaswamy-the-doge-plan-to-reform-government-supreme-court-guidance-end-executive-power-grab-fa51c020>; Alice Tecotzky, *A running list of what Elon Musk and Vivek Ramaswamy say they will change*, BUS. INSIDER (Dec. 13, 2024, 4:02 AM), <https://www.businessinsider.com/doge-cuts-changes-elon-musk-vivek-ramaswamy-2024-12>.

⁹ Isaac Arnsdorf and Jeff Stein, *Trump’s executive action strategy: Go ahead, sue me*, WASH. POST (Dec. 14, 2024) <https://www.washingtonpost.com/politics/2024/12/14/trump-executive-actions-birthright-citizenship-courts/>.

¹⁰ Eric Lipton, et al., *U.S. Agencies Fund, and Fight With, Elon Musk. A Trump Presidency Could Give Him Power Over Them*, N.Y. TIMES (Oct. 20, 2024), <https://www.nytimes.com/2024/10/20/us/politics/elon-musk-federal-agencies-contracts.html>.

¹¹ *Id.*

Administration,¹² U.S. Fish and Wildlife Service and the National Park Service,¹³ the National Labor Relations Board,¹⁴ the Securities and Exchange Commission,¹⁵ the National Highway and Traffic Safety Administration,¹⁶ the Federal Communications Commission,¹⁷ and the Federal Trade Commission,¹⁸ among others.¹⁹ He is therefore uniquely positioned to potentially recommend and help enact policies that directly impact his businesses and those of his competitors.²⁰ Musk’s companies—and particularly his electric car manufacturer Tesla—exist in a complex economic ecosystem, where changes in government subsidies and regulations can create chaos in the market, shifting billions into a single company’s pocket on the back of consumers who want to purchase an electric vehicle. Meanwhile, Musk’s aerospace company SpaceX—a massive recipient of government funds—has a, “defacto monopoly” on rocket launches,²¹ a reality that should raise some flags for the Federal Trade Commission—an agency that already appears to be in Musk’s crosshairs.²² Even minor changes in an agency’s enforcement priorities or procurement policies could cost—or make—Musk tens or even hundreds

¹² See, e.g., *FAA Proposes \$633,009 in Civil Penalties Against SpaceX*, FEDERAL AVIATION ADMINISTRATION (Sept. 17, 2024), <https://www.faa.gov/newsroom/faq-proposes-633009-civil-penalties-against-spacex>; Letter from Marcus C Ward to Shana Diez (Sept. 7, 2023) (on file with The New York Times), <https://static01.nyt.com/newsgraphics/documenttools/d10fb6599134891a/bc1a9175-full.pdf>; Eric Lipton, *Wildlife Protections Take a Back Seat to SpaceX’s Ambitions*, N.Y. TIMES (July 7, 2024), <https://www.nytimes.com/2024/07/07/us/politics/spacex-wildlife-texas.html>;

¹³ *Id.*

¹⁴ Tesla, Inc. Complaint and Notice of Hearing, Tesla, Inc. and Rochester Regional Joint Board, Workers United, No. 03-CA-312352, <https://www.scribd.com/document/730995703/NLRB-complaint-against-Tesla-in-Buffalo-New-York>.

¹⁵ See, e.g., Matthew Goldstein, *Elon Musk Steps Down as Chairman in Deal With S.E.C. Over Tweet About Tesla*, N.Y. TIMES (Sept. 29, 2018), <https://www.nytimes.com/2018/09/29/business/tesla-musk-sec-settlement.html>; Tom Krisher, *Musk says US is demanding he pay penalty over disclosures of his Twitter stock purchases*, AP (Dec. 13, 2024, 12:02 PM), <https://apnews.com/article/musk-sec-twitter-stock-purchases-penalty-letter-0eddad3db779c5b07988d7b9886b10b2>;

¹⁶ Lora Kolodny, *Tesla faces NHTSA investigation of ‘Full Self-Driving’ after fatal collision*, CNBC (Oct. 18, 2024, 7:49 AM), <https://www.cnbc.com/2024/10/18/tesla-faces-nhtsa-investigation-of-full-self-driving-after-fatal-collision.html>; Faiz Siddiqui, et al., *Tesla conducts largest-ever recall for ‘insufficient’ safety controls after exclusive Post report on Autopilot*, WASH. POST <https://www.washingtonpost.com/technology/2023/12/13/tesla-autopilot-recall/>.

¹⁷ *FCC Reaffirms Decision to Reject Starlink Application for Nearly \$900 Million in Subsidies*, FEDERAL COMMUNICATIONS COMMISSION (Dec. 12, 2023), <https://www.fcc.gov/document/fcc-reaffirms-decision-reject-starlink-application-nearly-900-million-subsidies>.

¹⁸ Brian Fung, *FTC says it’s conducting an investigation into Twitter’s privacy practices*, CNN (Mar. 8, 2023, 11:19 AM), <https://www.cnn.com/2023/03/08/tech/ftc-twitter-privacy-investigation/index.html>.

¹⁹ See generally Faiz Siddiqui and Rachel Lerman, *Musk has long history of squabbles, investigations with federal agencies*, WASH. POST (Nov. 15, 2024), <https://www.washingtonpost.com/business/2024/11/15/elon-musk-trump-government-efficiency-agencies-investigations/>.

²⁰ George Chidi, *Elon Musk’s six major conflicts of interest with the federal government*, THE GUARDIAN (Dec. 13, 2024, 7:00 AM), <https://www.theguardian.com/us-news/2024/dec/13/elon-musk-conflict-of-interest>.

²¹ Micah Maidenberg, *Elon Musk’s SpaceX Now Has a ‘De Facto’ Monopoly on Rocket Launches*, WALL ST. J. (July 7, 2023, 12:35 AM), <https://www.wsj.com/articles/elon-musks-spacex-now-has-a-de-facto-monopoly-on-rocket-launches-3c34f02e>.

²² Elon Musk (@elonmusk), TWITTER (Oct. 31, 2024, 9:51 AM), <https://x.com/elonmusk/status/1851985438933668337>.

of millions of dollars; and he has not promised to make minor changes—he wants to cut \$2 trillion from the federal budget.²³

Musk’s companies’ role as a federal contractor and a party subject to federal regulation and investigation threatens the impartiality of any recommendations DOGE makes. It is crucial that the American people understand precisely what Musk and Ramaswamy are preparing, so that they can fully comprehend the extent of any potential conflicts of interest. DOGE’s, and its founders Musk and Ramaswamy’s, communications with federal agencies are therefore of immense public interest. They offer the first glimpse into how Musk and Ramaswamy may use DOGE to attempt to reshape the government—and the extent to which those plans may involve potentially enriching themselves at the public’s expense. Without these records, the public will remain in the dark as Musk and Ramaswamy begin this project and will therefore not be able to assess whether DOGE will serve the nation or the interests of a privileged few.

SDDF is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. SDDF is committed to defending and strengthening democracy while ensuring that all Americans are able to freely exercise their fundamental civil rights. Democracies require that the people who are chosen to represent the public in government operate with integrity, putting the public’s interests over their own personal or pecuniary gain. That is SDDF’s mission, and why it is requesting records today. SDDF uses a combination of strategic litigation, policy development, and advocacy to advance this goal of a government free from conflicts of interest and self-dealing. SDDF intends to study the records responsive to this request and to share its results with the public through investigative analyses, publications, press releases, or other mechanisms. The request is not in SDDF’s financial interest.

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

Request for Expedition

Finally, please be advised that SDDF also has requested expedition of this request because its subject matter is of widespread and exceptional interest, and the requested information involves possible questions about the government’s integrity and its ability to identify and prevent unethical and potentially corrupt conduct.

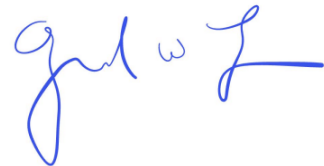
We have enclosed a copy of our request for expedition submitted to Director Hinojosa at the Office of Public Affairs of the United States Department of Justice pursuant to 28 C.F.R. § 16.5(e)(1)(iv).

²³ Steven T. Dennis, *Musk Wants \$2 Trillion Cut From US Budget. It’d Be Difficult*, BLOOMBERG (Oct. 28, 2024, 3:13 PM), <https://www.bloomberg.com/news/articles/2024-10-28/musk-wants-2-trillion-cut-from-us-budget-it-d-be-difficult>.

Conclusion

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at gabe@statedemocracydefenders.org. Where possible, please produce records in electronic format. Please send the requested records to me at either gabe@statedemocracydefenders.org or Gabe Lezra, State Democracy Defenders Fund, 600 Pennsylvania Ave., S.E., Washington, D.C. 20003. Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gabe Lezra". The signature is fluid and cursive, with the first name "Gabe" and last name "Lezra" clearly distinguishable.

Gabe Lezra
Policy and Advocacy Director

December 16, 2024

Xochitl Hinojosa
Director, Office of Public Affairs
United States Department of Justice
950 Pennsylvania Avenue NW.
Washington, DC 20530-0001

Re: Freedom of Information Act Request, Request for Expedition

Dear Director Hinojosa,

State Democracy Defenders Fund (“SDDF”) respectfully submits the following request for expedited processing of the attached requests for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 *et seq.* and 28 C.F.R. § 16.5(e)(1)(iv).

The attached request for records fulfills the requirements for expedited processing as it (1) concerns “a matter of widespread and exceptional media interest,” that (2) raises serious potential questions “about the government’s integrity that affect[s] public confidence.”

- (1) Exceptional media interest. The Department of Government Efficiency (“DOGE”) and its activities have generated a great deal of media attention since its announcement in August 2024,²⁴ and it has continued to increase since President-elect Donald Trump’s victory and subsequent announcement of his intent to name Elon Musk and Vivek Ramaswamy to lead the new advisory commission.²⁵ That is partially because, as we

²⁴ Elon Musk (@elonmusk) TWITTER (Aug. 19, 2024, 10:37 PM), <https://x.com/elonmusk/status/1825723913051000851>. See also, Hugh Cameron, *Elon Musk 'Willing to Serve' in Trump Cabinet*, NEWSWEEK (Aug. 20, 2024),

<https://www.newsweek.com/elon-musk-donald-trump-cabinet-position-offer-meme-1941624>.

²⁵ See, e.g., Camila Domonoske, *Donald Trump names Elon Musk, Vivek Ramaswamy to lead new government agency*, NPR (Nov. 12, 2024),

<https://www.npr.org/2024/11/12/nx-s1-5188675/donald-trump-names-elon-musk-vivek-ramaswamy-to-lead-new-government-agency>; Holly Honderich, *What we know about Musk's cost-cutting mission*, BBC (Dec. 5, 2024),

<https://www.bbc.com/news/articles/c23vkd574710>; Eric Lipton, et al., *U.S. Agencies Fund, and Fight With, Elon Musk. A Trump Presidency Could Give Him Power Over Them*, N.Y. TIMES (Oct. 20, 2024),

<https://www.nytimes.com/2024/10/20/us/politics/elon-musk-federal-agencies-contracts.html>; Michael Embrich, *Elon Musk's DOGE Is The Department Of Project 2025-But Worse*, ROLLING STONE, (Nov. 18, 2024)

<https://www.rollingstone.com/politics/political-commentary/trump-musk-ramaswamy-doge-project-2025-1235169916/>; Alice Tecotzky, *DOGE tracker: A running list of what Elon Musk and Vivek Ramaswamy say they will change*, BUSINESS INSIDER, (Dec. 13, 2024),

<https://www.businessinsider.com/doge-cuts-changes-elon-musk-vivek-ramaswamy-2024-12>; Steven T. Dennis, *Musk Wants \$2 Trillion Cut From US Budget. It'd Be Difficult*, BLOOMBERG, (Oct. 28, 2024),

<https://www.bloomberg.com/news/articles/2024-10-28/musk-wants-2-trillion-cut-from-us-budget-it-d-be-difficult>.

detail in the attached request for records, DOGE's future structure is vague,²⁶ and its mandate is immense²⁷—as are its potential conflicts of interest.²⁸ DOGE's and Musk's potential conflicts in particular are of unique concern, driving the media to ask questions about DOGE to federal policymakers,²⁹ and even the President-elect.³⁰

(2) Government integrity and public confidence. The appearance of corruption in government is a virus that can be deadly for a democracy. It flows through every pathway it can find, eating its way into the public conscience. And as the infection spreads it becomes more difficult to eradicate. That is what is at issue here. DOGE itself is not inherently or even necessarily corrupt. Neither are Musk and Ramaswamy. But, as we explain in the request for records, the potential conflicts of interest concerns posed by an Elon Musk-led DOGE are immense. Musk, through his companies, is one of the government's largest recipients of federal funds, with contracts in the billions of dollars;³¹ and he is also the owner of companies that compete in some of the country's more regulated industries and that have been the subject of over a dozen disputes and investigations.³² Absent strong ethics controls and adequate oversight mechanisms, his participation in regulatory and other executive policy decisions could lead the public to question his motivations—and, consequently, the entire government's integrity. These records reflect the beginning of a project that could deeply and potentially irreparably undermine the public's confidence in their government.

²⁶ See generally Client Alert, *DOGE Details: The Knowns and Unknowns of Trump's Cost-Cutting Board*, GIBSON DUNN (Dec. 6, 2024),

<https://www.gibsondunn.com/doge-details-the-knowns-and-unknowns-of-trump-cost-cutting-board/>.

²⁷ Musk and DOGE have been tasked with, “dismantl[ing] Government Bureaucracy, slash[ing] excess regulations, cut[ting] wasteful expenditures, and restructur[ing] Federal Agencies.” Karoline Leavitt (@karolineleavitt), TWITTER (Nov. 12, 2024, 7:34 PM), <https://x.com/karolineleavitt/status/1856495794171301965>. See also Client Alert, *DOGE Details: The Knowns and Unknowns of Trump's Cost-Cutting Board*, GIBSON DUNN (Dec. 6, 2024) <https://www.gibsondunn.com/doge-details-the-knowns-and-unknowns-of-trump-cost-cutting-board/>.

²⁸ We detail the potential for conflicts in our request. See also George Chidi, *Elon Musk's six major conflicts of interest with the federal government*, THE GUARDIAN (Dec. 13, 2024, 7:00 AM), <https://www.theguardian.com/us-news/2024/dec/13/elon-musk-conflict-of-interest>.

²⁹ Sudiksha Kochi and Erin Mansfield, ‘No concerns’: Republicans dismiss ethics issues with Musk, Ramaswamy, USA TODAY, (Dec. 7, 2024), <https://www.usatoday.com/story/news/politics/elections/2024/12/07/republicans-congress-musk-ramaswamy-ethics/76804767007/>.

³⁰ Brent D. Griffiths, *Trump says he isn't worried about potential conflicts of interest at Musk's DOGE: “Elon puts the country long before his company”*, BUSINESS INSIDER (Dec. 12, 2024), <https://www.businessinsider.com/trump-elon-musk-doge-conflicts-of-interest-spacex-2024-12>.

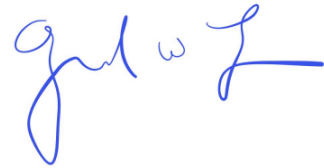
³¹ Lipton et al., *U.S. Agencies Fund, and Fight With, Elon Musk. A Trump Presidency Could Give Him Power Over Them*, N.Y. TIMES (Oct. 20, 2024), <https://www.nytimes.com/2024/10/20/us/politics/elon-musk-federal-agencies-contracts.html>; George Chidi, *Elon Musk's Six Major Conflicts of Interest with the Federal Government*, THE GUARDIAN (Dec. 13, 2024), available at <https://www.theguardian.com/us-news/2024/dec/13/elon-musk-conflict-of-interest>.

³² George Chidi, *Elon Musk's Six Major Conflicts of Interest with the Federal Government*, THE GUARDIAN (Dec. 13, 2024), available at <https://www.theguardian.com/us-news/2024/dec/13/elon-musk-conflict-of-interest>. We detail Musk's disputes with regulators in more depth in the attached request for records.

If DOGE, Musk, Ramaswamy, or their agents, are beginning to work on projects that could add tens or even hundreds of millions of dollars to their own pocket at the public's expense, the public must know. And they must know as soon as possible. If DOGE makes recommendations on January 20, 2025 for regulatory and policy changes that could completely upend entire markets and harm consumers, it will be too late to raise these concerns and to take the necessary steps to insulate the government from potential corruption and, crucially, the appearance of corruption. These records would supply the public with the information they need to respond in time to ensure their government is not overwhelmed and undermined by conflicts of interest.

Thank you for your attention to this matter. If you have any questions or other concerns please feel free to contact me by email at gabe@statedemocracydefenders.org or by mail at Gabe Lezra, State Democracy Defenders Fund, 600 Pennsylvania Ave., S.E., Washington, D.C. 20003.

Sincerely,

A handwritten signature in blue ink, appearing to read "gabe w L", is positioned below the "Sincerely," text.

Gabe Lezra
Policy and Advocacy Director