

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

DEMOCRACY FORWARD FOUNDATION,
P.O. Box 34553
Washington, D.C. 20043,

Plaintiff,

vs.

U.S. DEPARTMENT OF THE TREASURY,
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

U.S. DEPARTMENT OF EDUCATION
400 Maryland Ave SW,
Washington, DC 20202

SMALL BUSINESS ADMINISTRATION
409 3rd St. SW
Washington, DC 20416

Defendants.

Case No. 25-cv-684

COMPLAINT FOR INJUNCTIVE RELIEF

Plaintiff Democracy Forward Foundation brings this action against Defendants U.S. Department of the Treasury (“Treasury”), U.S. Department of Education (“ED”), and Small Business Administration (“SBA”) to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). Plaintiff alleges as follows.

Jurisdiction and Venue

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

2. Venue is proper under 28 U.S.C. § 1391(e), as Defendants’ headquarters are located in Washington, D.C., within this district, and a substantial part of the events or omissions giving rise to Plaintiff’s claims occurred here.

Parties

3. Plaintiff Democracy Forward Foundation (“Democracy Forward”) is a not-for-profit organization incorporated under the laws of the District of Columbia and based in Washington, D.C. Plaintiff works to promote transparency and accountability in government, in part, by educating the public on government actions and policies.

4. Defendant Treasury is a federal agency within the meaning of FOIA, 5 U.S.C. § 552(f)(1), and is headquartered in Washington, D.C. Treasury has possession, custody, and control of records to which Plaintiff seeks access. The Bureau of the Fiscal Service (“BFS”) is a component of Treasury.

5. Defendant ED is a federal agency within the meaning of FOIA, 5 U.S.C. § 552(f)(1), and is headquartered in Washington, D.C. ED has possession, custody, and control of records to which Plaintiff seeks access.

6. Defendant SBA is a federal agency within the meaning of FOIA, 5 U.S.C. § 552(f)(1), and is headquartered in Washington, D.C. SBA has possession, custody, and control of records to which Plaintiff seeks access.

Facts

7. Democracy Forward filed several FOIA requests to Defendants following reports that staffers from the U.S. DOGE Service (“DOGE”) and other staff affiliated with DOGE were influencing important functions and policy decisions at agencies across the Executive Branch.

8. The requests seek directives and communications of these agencies related to DOGE's activities, including communications between the agencies and DOGE or the White House and directives received from DOGE.

Treasury DOGE Communications Request (2025-FOIA-01400)

9. On January 31, 2025, Democracy Forward sent a FOIA request to Treasury seeking the following:

- (1) All electronic communications (including emails, email attachments, complete email chains, calendar invitations, calendar invitation attachments, text messages, or messages on messaging platforms) between (a) the Treasury officials listed below and (b) Elon Musk, or any representatives of Elon Musk or the Department of Government Efficiency ("DOGE") (also known as the U.S. "DOGE" (previously "Digital") Service), or any representatives of the Executive Office of the President (including, but not limited to, emails ending in eop.gov).

Treasury officials:

- a. Scott Bessent, Secretary
 - b. David Lebryk, Acting Deputy Secretary, former Acting Secretary and Fiscal Assistant Secretary
 - c. Dan Katz, Chief of Staff
 - d. Samantha Schwab, Deputy Chief of Staff
 - e. Cora Alvi, Deputy Chief of Staff
 - f. Alexandra Preate, Senior Counselor
 - g. Tyler Badgely, Executive Secretary
 - h. Hunter McMaster, Director of Policy Planning
 - i. Matthew Garber, Performing Duties of Fiscal Assistant Secretary
- (2) All electronic communications (including emails, email attachments, complete email chains, calendar invitations, calendar invitation attachments, text messages, or messages on messaging platforms) of the Treasury officials listed in part 1 containing any of the following terms:
 - a. Elon
 - b. Musk
 - c. DOGE
 - d. "Payment system"
 - e. SPS
 - f. "Payment Automation Manager"
 - g. PAM

- h. “Automated Standard Application for Payments”
- i. “Federal Disbursement Services”
- j. FDS

For part 2 of this request and for the custodians David Lebryk and Matthew Garber only, we seek records from November 6, 2024 until the date of the search.

For part 1 of this request and all other custodians in part 2, we seek records from January 20, 2025, until the date of the search.

10. On February 10, 2025, Treasury acknowledged Democracy Forward’s request, assigning it tracking number 2025-FOIA-01400.

11. Democracy Forward has received no further communication from Treasury regarding request number 2025-FOIA-01400.

BFS DOGE Communications Request (2025-FSF-00216)

12. On January 31, 2025, Democracy Forward sent a FOIA request to Treasury’s component the Bureau of the Fiscal Service (“BFS”) seeking the following:

- (1) All electronic communications (including emails, email attachments, complete email chains, calendar invitations, calendar invitation attachments, text messages, or messages on messaging platforms) between (a) the Bureau of Fiscal Service officials listed below and (b) Elon Musk, any representatives of Elon Musk or the Department of Government Efficiency (“DOGE”) (also now referred to as the U.S. “DOGE” (previously “Digital”) Service).

BFS officials:

- a. Timothy Gribben, Commissioner
 - b. Matt Miller, Deputy Commissioner, Financing and Operations
 - c. Joseph Gioeli, Deputy Commissioner, Transformation and Modernization
- (2) All electronic communications (including emails, email attachments, complete email chains, calendar invitations, calendar invitation attachments, text messages, or messages on messaging platforms) of the Treasury officials listed in part 1 containing any of the following terms:
 - a. Elon
 - b. Musk

c. DOGE

Items 1 and 2 of this request seek records from November 5, 2024, until the date of the search.

- (3) All electronic communications (including emails, email attachments, complete email chains, calendar invitations, calendar invitation attachments, text messages, or messages on messaging platforms) between (a) the Bureau of Fiscal Service officials listed in Item 1 and (b) any representatives of the Executive Office of the President (included, but not limited to, emails ending in eop.gov).

Item 3 of this request seeks records from January 20, 2025, until the date of the search.

13. On January 31, 2025, Treasury acknowledged Democracy Forward's request, assigning it tracking number 2025-FSF-00216.

14. Democracy Forward has received no further communication from Treasury or its component BFS regarding request number 2025-FSF-00216.

ED DOGE Communications Request (25-02311-F)

15. On February 6, 2025, Democracy Forward sent a FOIA request to ED seeking the following:

- (1) All electronic communications (including emails, email attachments, complete email chains, calendar invitations, calendar invitation attachments, text messages, or messages on messaging platforms) between (a) Department of Education officials listed below and (b) any representatives of the Executive Office of the President (including, but not limited to, emails ending in eop.gov), the Department of Government Efficiency ("DOGE"), or the U.S. "DOGE" (previously "Digital") Service.

Department of Education officials:

- a. Acting Secretary Denise Carter
- b. Chief of Staff Rachel Oglesby
- c. Deputy Chief of Staff for Policy and Programs Jonathan Pidluzny
- d. Deputy Chief of Staff for Operations Virginia "Chase" Forrester
- e. White House Liaison Steve Warzoha
- f. Principal Deputy General Counsel Tom Wheeler

- g. Deputy Assistant Secretary for Policy, Office of Civil Rights
Craig Trainor
- h. Deputy Assistant Secretary, Office of Communications and
Outreach Madi Biedermann
- i. Deputy General Counsel Candice Jackson
- j. Deputy General Counsel Joshua Kleinfeld

(2) All electronic communications (including emails, email attachments, complete email chains, calendar invitations, calendar invitation attachments, text messages, or messages on messaging platforms) of the Education officials listed in part 1 containing any of the following terms:

- a. Elon
- b. Musk
- c. DOGE

16. The request sought records from January 20, 2025, through the date of the search.

17. On February 10, 2025, ED acknowledged Democracy Forward's request, assigning it request number 25-02311-F.

18. Democracy Forward has received no further communication from ED regarding request number 25-02311-F.

ED DOGE Directives Request (25-02312-F)

19. On February 6, 2025, Democracy Forward sent a FOIA request to ED seeking the following:

- (1) All final guidance, memoranda, or directives received by Ed from the White House, the Domestic Policy Council, the Presidential Personnel Office, the Office of Management and Budget, the U.S. Digital Service, or the U.S. "DOGE" Service that were sent on or after January 20, 2025.
- (2) All final guidance, memoranda, or directives created by Ed on or after January 20, 2025 regarding transferring or moving Education programs to other departments, eliminating or failing to fill staff positions, block granting funds to the states, using Office of Civil Rights to enforce executive orders, reducing or changing the kinds of data collected, eliminating offices, or giving DOGE or Office of Personnel Management employees access to student loan data or any other Department of Education data or systems.

20. The request sought records from January 20, 2025, through the date of the search.
21. On February 10, 2025, ED acknowledged Democracy Forward's request, assigning it request number 25-02312-F.
22. Democracy Forward has received no further communication from ED regarding request number 25-02312-F.

SBA Leadership and DOGE Request (SBA-2025-002068)

23. On February 6, 2025, Democracy Forward sent a FOIA request to SBA seeking the following:

- (1) Records sufficient to identify the names of all of SBA's political appointees and special government employees who have started at or been detailed to SBA since January 20, 2025.
- (2) All calendar invitations and/or entries of all of SBA's political appointees and special government employees from January 20, 2025, through the date of search. Please produce detailed forms of responsive calendar entries that include attendee information, including attendee names and email addresses.
- (3) All external communications (including email messages, complete email chains, calendar invitations, or attachments thereto, as well as any text messages or messages sent on messaging platforms such as Slack, Microsoft Teams, WhatsApp, Signal, or GChat) between (a) any of SBA's political appointees and special government employees who have started at or been detailed to SBA since January 20, 2025, and (b) anyone outside government, including but not limited to anyone with an email address ending in .com / .org / .net / .edu / .us.
- (4) All communications (including email messages, complete email chains, calendar invitations, or attachments thereto, as well as any text messages or messages sent on messaging platforms such as Slack, Microsoft Teams, WhatsApp, Signal, or GChat) between (a) any of SBA's political appointees and special government employees who have started at or been detailed to SBA since January 20, 2025, and (b) any representatives of the Executive Office of the President (including, but not limited to, emails ending in eop.gov), Elon Musk, or any representatives of Elon Musk, the "Department of Government Efficiency" ("DOGE") or the U.S. "DOGE" Service, or any

representatives of the Office of Personnel Management (including, but not limited to, emails ending in opm.gov).

24. On February 6, 2025, SBA acknowledged Democracy Forward's request, assigning it tracking number SBA-2025-002068.

25. Democracy Forward has received no further communication from SBA regarding request number SBA-2025-002068.

SBA DOGE and WH Directives Request (SBA-2025-002069)

26. On February 6, 2025, Democracy Forward sent a FOIA request to SBA seeking the following:

- (1) All final guidance, memoranda, or directives received by SBA from the White House, the Domestic Policy Council, the Presidential Personnel Office, the Office of Management and Budget, the U.S. Digital Service, or the U.S. "DOGE" Service that were sent on or after January 20, 2025.
- (2) All final guidance, memoranda, or directives created by SBA on or after January 20, 2025 regarding giving DOGE or Office of Personnel Management employees access to SBA systems, including HR, contract, and payment systems.

27. On February 6, 2025, SBA acknowledged Democracy Forward's request, assigning it tracking number SBA-2025-002069.

28. Democracy Forward has received no further communication from SBA regarding request number SBA-2025-002069.

29. In submitting all six of the above FOIA requests, Democracy Forward requested fee waivers in light of the public interest in disclosure of the requested information. Defendants have not provided Democracy Forward with a determination on its fee waiver requests.

Exhaustion of Administrative Remedies

30. As of the date of the Complaint, Defendants have failed to notify Democracy Forward of determinations regarding Democracy Forward's FOIA requests. Through

Defendants' failure to respond within the time limits required by law, Democracy Forward has constructively exhausted administrative remedies.

CLAIM FOR RELIEF

Count 1 (Violation of FOIA, 5 U.S.C. § 552)

31. Plaintiff incorporates by reference the foregoing paragraphs as though fully set forth herein.

32. By failing to respond to Plaintiff's requests with determinations within the statutorily mandated time period, Defendants have violated its duties under 5 U.S.C. § 552, including but not limited to, its duties to conduct a reasonable search for responsive records, to take reasonable steps to release all nonexempt information, and to not withhold responsive records.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff requests that this Court:

1. Order Defendants to conduct searches for any and all responsive records to Plaintiff's FOIA requests using search methods reasonably calculated to lead to discovery of all responsive records;
2. Order Defendants to produce, by a date certain, any and all non-exempt responsive records and a *Vaughn* index of any responsive records withheld under a claim of exemption;
3. Enjoin Defendants from continuing to withhold any and all non-exempt responsive records;
4. Order Defendants to grant Plaintiff's requests for fee waivers;
5. Award Plaintiff its costs, attorneys' fees, and other disbursements for this action; and
6. Grant any other relief this Court deems appropriate.

Dated: March 7, 2025

Respectfully submitted,

/s/ Daniel A. McGrath

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