



December 23, 2025

VIA Electronic Delivery

U.S. Office of Special Counsel
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Re: Potential violations of the Hatch Act

Dear Acting Special Counsel Greer:

Democracy Forward Foundation (“DFF”), a national legal organization that conducts investigations and litigation to promote government accountability, is writing to inform the Office of Special Counsel (“OSC”) of serious potential violations of the Hatch Act during the historic government shutdown of October and November 2025. As you know, the Hatch Act prohibits federal executive branch employees from engaging in partisan political activity while on duty, in a federal facility, or using federal property.¹ “Political activity” encompasses any activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group.² The Hatch Act stands as a safeguard against the politicization of the government, and its protections mean nothing if violations go unaddressed.

We are providing you with several examples of potential Hatch Act violations that took place during the shutdown.³ Taken together, these incidents demonstrate a coordinated pattern of federal officials misusing government resources and official authority to disseminate partisan political messaging concerning the shutdown.

DFF urges you to immediately open investigations into these potential Hatch Act violations and recommend appropriate sanctions to address the repeated transgressions of this administration.

I. Secretary Noem’s Airport Video Blaming TSA Delays on Democrats

In one of the clearest instances of a potential Hatch Act violation, Department of Homeland

¹ *Federal Employee Hatch Act Information*, U.S. Office of Special Counsel (accessed Dec. 16, 2025), <https://osc.gov/Services/Pages/HatchAct-Federal.aspx>; 5 U.S.C. §§ 7321–7326 (2022); Department of Ethics, *Justice Management Division – Fact Sheet: Political Activity and the Hatch Act*, The Department of Justice (Jan. 2024), <https://www.justice.gov/jmd/media/1359501/dl>.

² 5 C.F.R. § 734.101; Department of Ethics, *Justice Management Division – Fact Sheet: Political Activity and the Hatch Act*, The Department of Justice (Jan. 2024), <https://www.justice.gov/jmd/media/1359501/dl>.

³ In addition to the examples contained in the body of this letter, please also see Appendix A.

Security (“DHS”) Secretary Kristi Noem recorded a video blaming Transportation Security Administration (“TSA”) delays on Democrats for shutting down the government.⁴ In the video, Secretary Noem—speaking in her capacity as the secretary of a federal government agency—stated:

“It is TSA’s top priority to make sure that you have the most pleasant and efficient airport experience as possible while we keep you safe.” . . . “However, *Democrats in Congress refuse to fund the federal government*, and because of this, many of our operations are impacted, and most of our TSA employees are working without pay” (emphasis added).

The video played at airports across the country, enabling Secretary Noem to use her position as the head of the DHS and TSA to engage in partisan political activity in a clear violation of the Hatch Act. Certain airports rejected playing the video given the clear partisan nature of the message.⁵

II. The Department of Education Changing OOO Emails of Federal Employees

The administration also attempted during the shutdown to co-opt the voices of rank-and-file, non-partisan civil servant employees to take part in political messaging. At the Department of Education, furloughed federal employees’ out-of-office (“OOO”) messages were updated automatically, without employee permission.⁶ Under the direction of the Deputy Chief of Staff for Operations Chase Forrester, the Department’s Office of the Chief Information Officer (“OCIO”) implemented this on a system-wide OOO message on October 1, 2025 that said:

“Thank you for contacting me. On September 19, 2025, the House of Representatives passed H.R. 5371, a clean continuing resolution. Unfortunately, Democrat Senators are blocking passage of H.R. 5371 in the Senate which has led to a lapse in appropriations. Due to the lapse in appropriations I am currently in furlough status. I will respond to emails once government functions resume.”⁷

⁴ Preston Mizell (@MizellPreston), X (Oct. 9, 2025), <https://x.com/MizellPreston/status/>.

⁵ Adriana Gomez Licon and Rio Yamat, *A Kristi Noem Video Blames Democrats For the Shutdown. Some Airports Are Refusing to Play It For Being Too Political*, PBS News (Oct. 15, 2025), <https://www.pbs.org/newshour/nation/a-kristi-noem-video-blames-democrats-for-the-shutdown-some-airports-are-refusing-to-play-it-for-being-too-political>.

⁶ Marisa Kabas (@marisakabas.bsky.social) Bluesky (Oct. 2, 2025), <https://bsky.app/profile/marisakabas.bsky.social/post>; Natasha Korecki, et. al., *Education Department Employees Surprised to Find Their Email Automatically Changed to Blame Democrats for Shutdown*, NBC News (Oct. 2, 2025), <https://www.nbcnews.com/trump-administration/education-department-employees-email-automatically-changed>.

⁷ Decl. of Chase Forrester, Ex. 3 to Def.’s Cross-Mot. for Summ. J., Case No. 1:25-cv-03553-CRC (D.D.C. filed Oct. 16, 2025), ECF No. 15, at 39.

In response to litigation, OCIO implemented an updated version of the OOO message on October 6, 2025 with the following language:

“The Department employee you have contacted is currently in furlough status. On September 19, 2025, the House of Representatives passed H.R. 5371, a clean continuing resolution. Unfortunately, Democrat Senators are blocking passage of H.R. 5371 in the Senate which has led to a lapse in appropriations. The employee you have contacted will respond to emails once government functions resume.”⁸

On November 7, 2025, the U.S. District Court for the District of Columbia ruled that the Trump-Vance administration unlawfully compelled civil servants at the U.S. Department of Education to transmit *partisan political messaging* from their government email accounts during the ongoing federal shutdown—violating core First Amendment protections.⁹

As evidenced by this example as well as the additional examples from other agencies discussed in Appendix A, it appears the Hatch Act was violated by individuals across the federal government in regards to employees’ OOO messages during the shutdown. While Democracy Forward is not filing Hatch Act complaints against individuals at other agencies beyond the Department of Education related to these instances as it remains unclear who was responsible for these potential violations, we ask that OSC investigate to determine which employees acted potentially in violation of the Hatch Act with these activities and take appropriate action.

III. Agencies Displaying Partisan Messages on Government Websites

Soon after the lapse in appropriations, numerous federal agencies posted highly partisan messages on their official websites, blaming the “Democrats” or the “Radical Left” for the shutdown.¹⁰ The Department of Housing and Urban Development (“HUD”), for example, posted a landing message and a large banner on its website blaming “the radical left” for alleged efforts to “shut down the government” and stating that “The Trump Administration wants to keep the government open for the American people.”

⁸ For further identifying information *see id.*

⁹ Democracy Forward Foundation, *Court Rules Trump-Vance Administration Violated Federal Workers’ First Amendment Rights by Forcing Partisan Shutdown Messaging* (Nov. 7, 2025), <https://democracyforward.org/updates/ooo-win-lawsuit/>.

¹⁰ *See* Appendix B (Screenshots of official websites of federal agencies, which blame “Democrats” for the shutdown).



The public-facing nature and sharply political tone of these messages indicate that HUD officials and officials at other agencies whose websites are discussed in Appendix B ran afoul of the Hatch Act's bar on political activity. In addition, these messages also likely violated the Anti-Lobbying Act, which prohibits using federal, appropriated resources to lobby the public to influence legislation or appropriations.¹¹

Democracy Forward calls for OSC to investigate this use of partisan messaging on government websites to determine which employees acted potentially in violation of the Hatch Act with these activities and take appropriate action.

The Hatch Act prohibits federal employees from engaging in partisan political activity while performing official duties or using government resources. The examples described herein involve government officials, including those that should have received Hatch Act compliance training, repeatedly using taxpayer-funded infrastructure, official titles, and federally controlled communication channels to assign partisan blame for the shutdown to "Democrats in Congress," the "Democratic-led Senate," and the "radical left." Such conduct appears to involve the use of official authority and government resources to further partisan political interests.

A lapse in government funding is not a license to turn the federal government into a partisan political operation. In light of the serious concerns raised by these incidents, we respectfully urge OSC to open investigations into these potential Hatch Act violations and recommend sanctions

¹¹ 18 U.S. Code § 1913; *Constraints Imposed by 18 U.S.C. § 1913 on Lobbying Efforts*, The Department of Justice (Sept. 28, 1989), <https://www.justice.gov/olc/opinion/constraints-imposed-18-usc-%C2%A7%C2%A01913-lobbying-efforts>.

as soon as possible.

Sincerely,

/s/ *Skye L. Perryman*

Skye L. Perryman

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Democracy Forward Foundation

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Appendix A

The examples contained here represent additional select potential Hatch Act violations that occurred during the federal government shutdown from October to November 2025 at numerous executive branch agencies.

- On [October 1, 2025](#), Small Business Administration (“SBA”) employees received a template from the SBA’s human resources department with highly partisan OOO email language to use during the shutdown. The template language is included here: “I am out of office for the foreseeable future because Senate Democrats voted to block a clean federal spending bill (HR 5371), leading to a government shutdown that is preventing the US Small Business Administration from serving America’s 36 million small businesses. Every day that Senate Democrats continue [to] oppose a clean funding bill, they are stopping an estimated 320 small businesses from accessing \$170 million in SBA-guaranteed funding.”
- On [October 1, 2025](#), Department of Health and Human Services (“HHS”) employees were directed to send partisan OOO emails that blamed Democrats. The directed language is included here: “Thank you for contacting me. On September 19, 2025, the House of Representatives passed H.R. 5371, a clean continuing resolution. Unfortunately, Democratic senators are blocking its passage in the Senate, which has led to a lapse in appropriations. Due to this lapse, I am currently in furlough status and unable to respond to emails. I will reply once government operations resume.”
- On [October 1, 2025](#), the Department of Labor (“DOL”) provided employees with suggested OOO email language that blamed Democrats. The template language is included here: “Thank you for contacting me. On September 19, 2025, the House of Representatives passed H.R. 5371, a clean continuing resolution. Unfortunately, Democrat Senators are blocking passage of H.R. 5371 in the Senate which has led to a lapse in appropriations. Due to the lapse in appropriations I am currently in furlough status. I will respond to emails once government functions resume.”
- On [October 1, 2025](#), the White House released an article titled, “FACT: Democrats Shut Down Government Over Free Healthcare for Illegals.”
- On [October 1, 2025](#), the Office of Management and Budget (“OMB”) and other agencies sent partisan emails to federal workers. OMB sent emails to federal workers blaming Democrats for the government shutdown. Reporting indicated that [National Archives and Records Administration \(“NARA”\)](#), [Department of Veterans Affairs \(“VA”\)](#), [Department of Health and Human Services \(“HHS”\)](#), and [Social Security Association \(“SSA”\)](#) employees also received highly partisan messages from their agency.
- On [October 9, 2025](#), the White House’s Office of Digital Strategy sent an email urging all Americans to reach out to their U.S. Representative or Senator to “urge them to end the Democrat-led shutdown.”

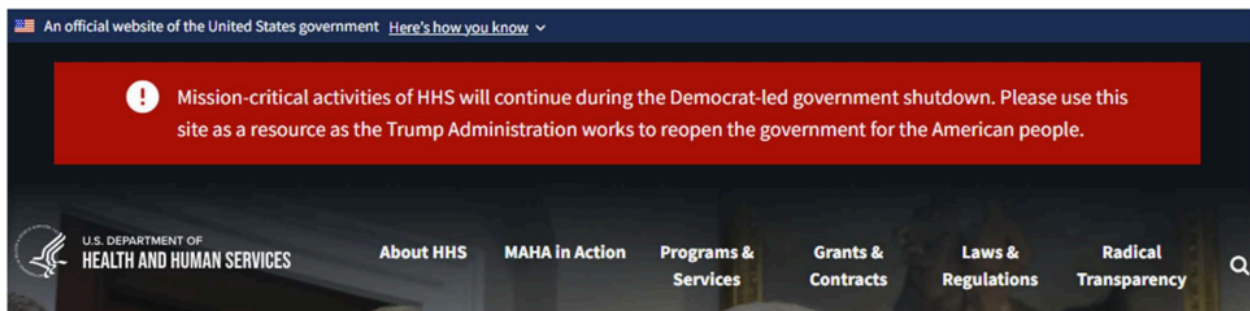
- On [October 14, 2025](#), the Office of Management and Budget (“OMB”) tweeted: “OMB is making every preparation to batten down the hatches and ride out the Democrats’ intransigence. Pay the troops, pay law enforcement, continue the RIFs, and wait.”
- On [October 26, 2025](#), Department of the Interior Secretary Doug Burgum (“DOI”) tweeted “When Congressional Democrats shut down the government, they’re shutting off access to America’s Balance Sheet! NO business would operate like this!”
- On [October 27, 2025](#), the White House tweeted “27 days later... Democrats are STILL making this harder than it has to be. Put America FIRST. Open the government. DEMOCRAT SHUTDOWN.TM” The tweet included a video meme.

Appendix B

- I. The following image is a screenshot of the official website of the U.S. Department of Agriculture that was taken during the government shutdown between October and November 2025:



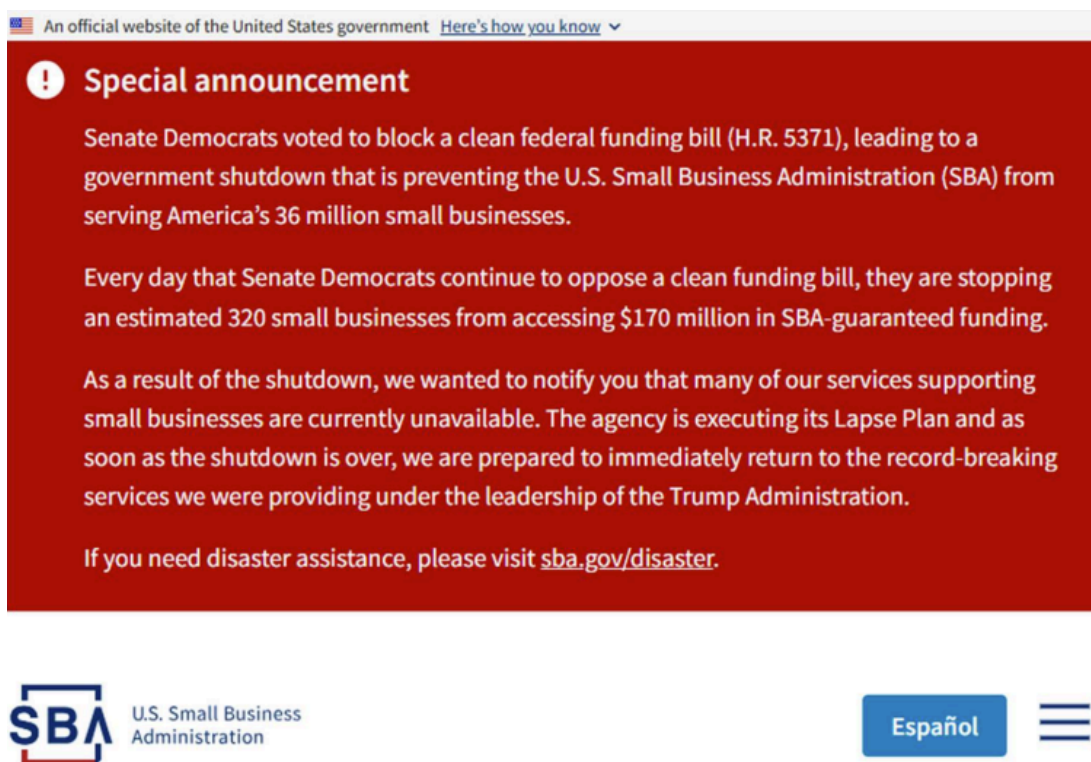
- II. The following image is a screenshot of the official website of the U.S. Department of Health and Human Services that was taken during the government shutdown:



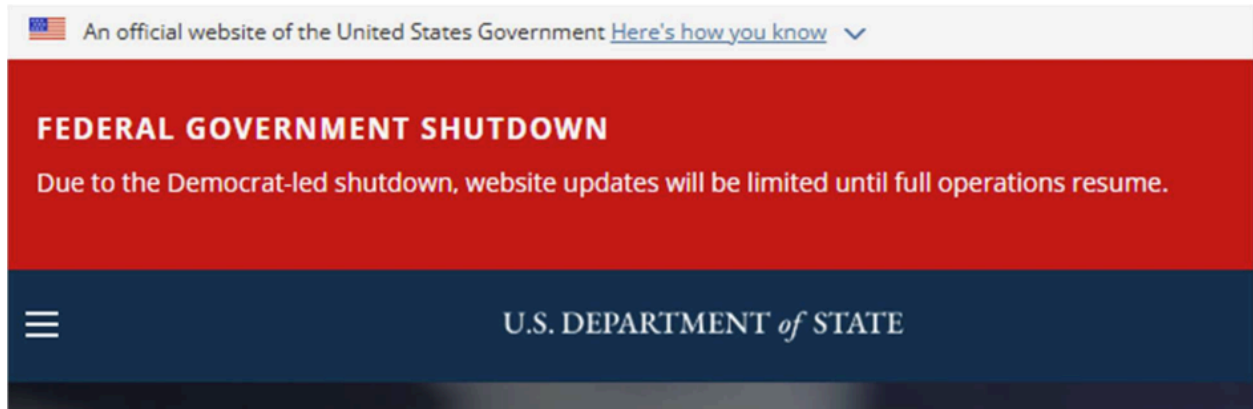
- III. The following image is a screenshot of the official website of the U.S. Department of Justice that was taken during the government shutdown:



- IV. The following image is a screenshot of the official website of the U.S. Small Business Administration that was taken during the government shutdown:



- V. The following image is a screenshot of the official website of the U.S. Department of State that was taken during the government shutdown:



- VI. The following image is a screenshot of the official website of the U.S. Department of the Treasury that was taken during the government shutdown:

