



CITIZENS FOR  
RESPONSIBILITY &  
ETHICS IN WASHINGTON

December 4, 2024

**Submitted via Online Portal**

Douglas Hibbard  
Office of Information Policy  
Department of Justice  
441 G Street, NW 6th Floor  
Washington, DC 20530

Xochitl Hinojosa  
Director of Public Affairs  
Office of Public Affairs  
Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530-0001

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

Dear FOIA Officer:

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

Specifically, CREW requests:

1. Any and all versions of the Memorandum of Understanding (MOU) signed on December 3, 2024 by the DOJ and Donald Trump’s 2024 transition team, allowing the transition team to seek FBI background checks of the president-elect’s senior nominees.
2. Any and all documents related to the signing of the MOU including, but not limited to, any contracts with private vendors that the Trump 2024 transition team may have sought to conduct background checks of the president-elect’s senior nominees prior to or in conjunction with entering the December 3, 2024 MOU with the DOJ.
3. Any and all documents related to the Trump 2024 transition team’s process for conducting or not conducting background checks of the president-elect’s senior nominees from September 1, 2024 to Present including, but not limited to, any internal or external communications with DOJ or FBI personnel about private vendors that the Trump 2024 transition team has or will engage to conduct of background checks of the president-elect’s senior nominees; any and all vetting information collected or received by DOJ or FBI personnel about the private vendors that the Trump 2024 transition team has or will

engage to to conduct of background checks of the president-elect's senior nominees; any and all vetting information collected or received about; any documents or emails discussing payment to private vendors that the Trump 2024 transition team has or will engage to to conduct of background checks of the president-elect's senior nominees.

The above request excludes agency records consisting solely of news articles, press clippings, and other publicly-available material, so long as the records include no accompanying discussion by agency officials.

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, CREW requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). If some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. *See* 5 U.S.C. § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. *See Mead Data Central v. U.S. Dep't of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

Please be advised that CREW intends to pursue all legal remedies to enforce its rights under FOIA. Accordingly, because litigation is reasonably foreseeable, the agency should institute an agencywide preservation hold on all documents potentially responsive to this request.

### **Fee Waiver Request**

In accordance with 5 U.S.C. § 552(a)(4)(A) and agency regulations, CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures likely will contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. *See id.* § 552(a)(4)(A)(iii). Moreover, the request primarily and fundamentally is for non-commercial purposes. *See, e.g., McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

On December 3, 2024, President-elect Donald Trump's Chief of Staff, Susie Wiles, announced that the 2024 Trump transition team had entered into an MOU with the Department of Justice to allow the names of nominated presidential appointees to be submitted for FBI background checks for the purpose of facilitating the presidential

administration transition.<sup>1</sup> This announcement follows considerable public pressure to require nominated appointees to be subject to FBI background checks after the transition team had publicly been reluctant to do so.<sup>2</sup>

The scope of the MOU is of critical importance since the FBI background checks are utilized in a number of the transition processes, including but not limited to, leadership readiness, security clearances, and the Senate confirmation process. Despite the signing of the agreement, it remains unclear whether all of the nominees will be submitted for background checks, whether those background checks will be made available to the Senate for the confirmation process, or whether outside organizations will be involved in the background checks. The language of the MOU is of vital and time sensitive importance to the public particularly since each of these outstanding concerns will weigh on the rapidly approaching Senate confirmation hearing—the process by which the people, through their representatives, have the responsibility to influence the confirmation of the president's appointees. The public interest demands transparency about what companies are conducting the background checks that will provide a key function in the Senate's constitutional advice and consent process for the president-elect's nominees, why the standard practice of having the FBI conduct these background checks was eschewed, and how these private contractors will be compensated.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public's right to be aware of the activities of government officials, to ensuring the integrity of those officials, and to highlighting and working to reduce the influence of money on politics. CREW uses a combination of research, litigation, and advocacy to advance its mission. CREW intends to analyze the information responsive to this request and to share its analysis with the public through reports, press releases, or other means. In addition, CREW will disseminate any documents it acquires from this request to the public through its website, [www.citizensforethics.org](http://www.citizensforethics.org). The release of information obtained through this request is not in CREW's financial interest.

CREW further requests that it not be charged search or review fees for this request pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) because CREW qualifies as a member of the news media. *See Nat'l Sec. Archive v. U.S. Dep't of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989) (holding non-profit a "representative of the news media" and broadly interpreting the term to include "any person or organization which regularly publishes or disseminates information to the public").

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<sup>1</sup> Maggie Haberman, Charlie Savage and Jonathan Swan, *NY Times*, Trump Team Signs Agreement to Allow F.B.I. Background Checks for Nominees, <https://www.nytimes.com/2024/12/03/us/trump-fbi-background-checks.html> (last visited Dec. 4, 2024).

<sup>2</sup> Noah Bookbinder and Gregg Nunziata, *NY Times*, Republican and Democratic Former Senate Counsels Agree: F.B.I. Checks on Trump Nominees Are a Must, <https://www.nytimes.com/2024/11/29/opinion/trump-background-senate-nominations-fbi.html> (last visited Dec. 4, 2024); Maggie Haberman, Charlie Savage and Jonathan Swan, *NY Times*, Advisers Propose That Trump Give Security Clearances Without F.B.I. Vetting, <https://www.nytimes.com/2024/10/27/us/politics/trump-security-clearances-fbi.html> (last visited Dec. 4, 2024).

CREW routinely disseminates information obtained through FOIA to the public in several ways. For example, CREW's website receives hundreds of thousands of page views every month. The website includes blogposts that report on and analyze newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. These reports frequently rely on government records obtained through FOIA. CREW also posts the documents it obtains through FOIA on its website.

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

### **Request for Expedition**

CREW requests that the Department of Justice ("DOJ") expedite the processing of this FOIA request as there is "an urgency to inform the public about an actual or alleged federal government activity" and CREW is "primarily engaged in disseminating information[.]" 28 C.F.R. §16.5(e)(1)(ii). There is a particularly urgent need to inform the public about the extent of the MOU signed by the DOJ and the Trump transition team facilitating FBI background checks.

Further, as explained above, CREW is "primarily engaged in disseminating information" to the public. As explained, CREW's primary purpose is to inform and educate the public about the activities of government officials and agencies. To that end, CREW uses statutes like the FOIA to gather information the public needs to hold public officials accountable and disseminates this information through social media and its website, [www.citizensforethics.org](http://www.citizensforethics.org), which receives tens of thousands of views every month.

Pursuant to 28 C.F.R. §5.5(e)(2) CREW also requests expedition from DOJ's Office of Public Affairs because there is a matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity affecting public confidence and safety.

Compliance with the routine practice of submitting nominated presidential appointees for FBI background checks and ensuring these background checks are made available to senators for the confirmation hearing directly impacts the ability of the citizenry and their representatives to fulfill their constitutional obligations. The public should know the specific agreements between the transition team and the DOJ regarding who will be subject to a background check and how these background checks will be used in the transition process.

For all these reasons, CREW satisfies the requirements for expedition. The undersigned certifies that the above statement is true and correct.

**Conclusion**

If you have any questions about this request or foresee any problems in fully releasing the requested records, please email me at [kmizellemcdaniel@citizensforethics.org](mailto:kmizellemcdaniel@citizensforethics.org) and [foia@citizensforethics.org](mailto:foia@citizensforethics.org) or call me at (202) 408-5565. Also, if CREW's request for a fee waiver is denied, please contact our office immediately upon making such a determination.

Where possible, please produce records in electronic format. Please send the requested records to [kmizellemcdaniel@citizensforethics.org](mailto:kmizellemcdaniel@citizensforethics.org) and [foia@citizensforethics.org](mailto:foia@citizensforethics.org) or by mail to Kalyn Mizelle McDaniel, Citizens for Responsibility and Ethics in Washington, 1331 F St. NW, Suite 900, Washington, D.C. 20004.

Sincerely,



Kalyn Mizelle McDaniel  
Legal Fellow



Laura Iheanachor  
Senior Counsel