



January 28, 2025

Matthew J. Vaeth
Acting Director
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Re: DOGE's compliance with the Federal Advisory Committee Act

Dear Acting Director Vaeth,

On November 12, 2024, then President-elect Trump issued a statement announcing the establishment of the Department of Government Efficiency, to be led by Elon Musk and Vivek Ramaswamy.¹ That statement indicated that the Department of Government Efficiency would partner with the Office of Management and Budget (“OMB”) to provide advice on reforming the government.² After assuming office, President Trump issued an Executive Order “Establishing and Implementing the President’s ‘Department of Government Efficiency.’”³ The Order created a new “temporary organization”—known as the “U.S. DOGE Service Temporary Organization” (hereinafter, “DOGE”)—within the United States DOGE Service (“USDS”), a renamed entity of OMB within the Executive Office of the President (formerly the United States Digital Service).⁴ The Order also provides for “DOGE Teams” to be established within the executive branch agencies by each Agency Head, which will coordinate with the USDS Administrator.

Pursuant to 5 U.S.C. § 3161, a “temporary organization” is any “commission, committee, board, or other organization” that is established—including by Executive order—to perform a “specific study or other project.” While such temporary organizations may utilize volunteer workers, the law makes clear that they must comply with all federal requirements relating to graft, bribery and conflict of interest. 5 U.S.C. § 3161(i)(4). Given not only Mr. Musk’s interests in numerous federal contracts connected to his businesses, as well as additional news reporting regarding other billionaires and corporate tech executives working as volunteers in DOGE,⁵ this entity represents potentially one of the largest single conflict of interests in the history of this nation. Even if these individuals’ primary goal is not to enrich themselves, their roles in undoing critical regulatory safeguards designed to protect the environment and human health in order to benefit their corporate interests must be fully addressed and made transparent to the public.

¹ Donald J Trump (@realDonaldTrump), TruthSocial (Nov. 12, 2024, 7:46PM ET), <https://truthsocial.com/@realDonaldTrump/posts/113472884874740859>. It has since been reported that Mr. Ramaswamy will no longer work at DOGE; however, no official statement has been issued regarding its composition.

² *Id.*

³ See <https://www.whitehouse.gov/presidential-actions/2025/01/establishing-and-implementing-the-presidents-department-of-government-efficiency/>

⁴ *Id.*

⁵ See <https://www.businessinsider.com/what-we-know-so-far-who-working-on-doge-musk-2024-12>

Despite promises by Mr. Musk that DOGE would be transparent, President Trump’s executive order raises more questions than it answers. The executive order states that DOGE is a temporary organization intended to both modernize federal technology and software, and more generally an unspecified directive to “implement the President’s DOGE agenda.”⁶ Likewise, the Order states that the “DOGE Teams” working within the agencies will coordinate with USDS to implement the President’s “DOGE agenda.” But this DOGE agenda is not stated anywhere other than in the vaguest terms in social media posts.

According to President Trump’s statement when first establishing the Department of Government Efficiency, that “agenda” includes driving large scale structural change in the scope and function of the executive branch. Indeed, on November 20, 2024, Mr. Musk and Mr. Ramaswamy issued a statement as the heads of the Department of Government Efficiency, entitled “The DOGE Plan to Reform Government,” which discusses their plans for across the board regulatory recissions, administrative reductions of the federal workforce, and spending reductions to the federal budget on the order of \$2 trillion. DOGE has also created its own social media account on the X platform (@DOGE) and has issued several statements through that account, as well as through the accounts of Mr. Musk and Mr. Ramaswamy, regarding actions DOGE will undertake, including agencies, regulations, and even specific projects it intends to target.⁷ Thus, the “DOGE agenda” is clearly more than the executive order’s stated target of modernizing federal technology and software, and DOGE does not appear to be limited to a “specific study or other project” as the law requires.

Regardless, since DOGE and each DOGE Team are a “commission, committee,” or “other organization” established to provide advice or recommendations for the President and agencies in order to implement the President’s DOGE agenda, they are “advisory committees” as that term is defined under the Federal Advisory Committee Act (“FACA”). *See* 5 U.S.C. § 1001 (defining an “advisory committee” as any “committee,” “board,” “commission,” “task force,” or “similar group” “established or utilized to obtain advice or recommendations for the President or one or more agencies or officers of the Federal Government”). Therefore, unless they are composed solely of full-time government employees, they must comply with the express requirements of FACA. *Id.* Here, the participation of Mr. Musk as the ostensible leader of DOGE, as well as reports indicating that DOGE has been staffed by private citizens including many volunteers, suggests that DOGE and the DOGE Teams are subject to FACA.⁸

⁶ *Id.*

⁷ *See e.g.*, Department of Government Efficiency (@DOGE), X (Dec. 5, 2024, 5:30PM ET), <https://x.com/DOGE/status/1864829802785476737> (discussing specific construction projects, including a transmission line, highways, a gold mine, and reservoir expansion, that DOGE states have been “hampered by bureaucracy and overregulation”); Vivek Ramaswamy (@VivekGRamaswamy), X (Dec. 2, 2024, 8:59PM ET), <https://x.com/VivekGRamaswamy/status/1863764934514938118> (stating that DOGE intends to “carefully scrutinize” specific funding decisions made by President Biden, including loans made to StarPlus/Stellantis for an electric car battery plant, and to Rivian for a plant in Georgia – both of which happen to be competitors of Mr. Musk’s corporation Tesla).

⁸ *See e.g.*, Megan Cerullo, *Elon Musk's DOGE says it is hiring. Here are the jobs it's looking to fill*, CBS News, Jan. 8, 2025, <https://www.cbsnews.com/news/musk-department-of-government-efficiency-doge->

Pursuant to FACA, an advisory committee “shall not meet or take any action until an advisory committee charter has been filed” with the “head of the agency to whom any advisory committee reports,” 5 U.S.C. § 1008(c), which here is OMB and the Agency Heads. The Charter must include, among other information, “the committee’s objectives and the scope of its activity;” “a description of the duties for which the committee is responsible, and, if the duties are not solely advisory, a specification of the authority for the duties;” “the estimated annual operating costs for the committee in dollars and person-years;” and “the estimated number and frequency of committee meetings.” 5 U.S.C. § 1008(c). 5 U.S.C. § 1004 further requires “the membership of the advisory committee is to be fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee,” which requires the development of a Membership Balance Plan (MBP). *See* 41 C.F.R. § 102-3.60(b)(3).

An advisory committee must also make publicly available “the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, [and] other documents . . . made available to or prepared for or by” the committee. 5 U.S.C. § 1009(b). These materials must be released well *before* the relevant meeting, so that the public can “follow the substance of the [committee’s] discussions.”⁹ In addition, each advisory committee meeting must be “open to the public,” 5 U.S.C. § 1009(a), and “held at a reasonable time and in a manner or place reasonably accessible to the public,” 41 C.F.R. § 102-3.140. If an advisory committee meeting is held via teleconference, videoconference, or other electronic medium, it still must be made accessible to the public. 41 C.F.R. § 102-3.140(e). Further, FACA mandates that “[d]etailed minutes of each meeting of each advisory committee shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the advisory committee,” 5 U.S.C. § 1009(c), and the committee must make available copies of transcripts of advisory committee meetings to “any person,” *id.* § 1010.

It appears that DOGE has already been operating and holding meetings since President Trump announced its establishment in November of 2024. Indeed, several people have been appointed to work for or with DOGE,¹⁰ including one non-government employee who stated that he has been working for DOGE since early December, which included “taking meetings” on DOGE business.¹¹ Moreover, Mr. Musk and Mr. Ramaswamy, as the leaders of DOGE, along with

[jobs-applicants-hiring-x/](#) (stating that DOGE itself referred to Mr. Musk and other employees of DOGE as “outside volunteers, not federal officials or employees”).

⁹ *Food Chem. News v. Dep’t of Health & Human Servs.*, 980 F.2d 1468, 1472 (D.C. Cir. 1992).

¹⁰ *See e.g.*, Alice Tecotzky, *Trump has started appointing employees to Musk and Ramaswamy’s DOGE*, Business Insider, Jan. 7 2025, <https://www.businessinsider.com/doge-employees-hire-musk-ramaswamy-2024-12> (stating Mr. Trump appointed William McGinley as counsel for DOGE and that Katie Miller would also join the committee); Donald J. Trump (@realDonaldTrump), TruthSocial (Dec. 9, 2024, 6:31PM ET), <https://truthsocial.com/@realDonaldTrump/113625471739178108> (announcing that Mr. Trump had appointed Mark Paoletta as the General Counsel of OMB to work with DOGE).

¹¹ *See* Alice Tecotzky, *DOGE is hiring full-time salaried employees. These are the roles Elon Musk and Vivek Ramaswamy aim to fill*, Business Insider, Jan. 7, 2025, <https://www.businessinsider.com/elon-musk->

potentially other members of DOGE, have met and discussed DOGE business, including its intended goals and policy positions. That includes a meeting that DOGE appears to have had with Senator Joni Ernst of the DOGE Congressional caucus.¹² More recently, the Washington Post reported that DOGE has been “dispatching agents across [the] U.S. Government,” and that representatives of DOGE “have spoken with staffers at more than a dozen federal agencies.”¹³

When passing FACA, Congress explained that “[o]ne of the great dangers in the unregulated use of advisory committees is that special interest groups may use their membership on such bodies to promote their private concerns.” H.R. Rep. No. 92-1017, at 6 (1972), *as reprinted in* 1972 U.S.C.C.A.N. 3491, 3496. Indeed, the statute expressly provides that “appropriate” steps must be taken to “assure that the advice and recommendations of the advisory committee will not be inappropriately influenced by the appointing authority or by any special interest” 5 U.S.C. § 1004(b)(3). To accomplish these purposes, FACA therefore demands transparency and public participation when the executive branch establishes or uses advisory committees. At this time, however, even though DOGE has been apparently operating for several months and having meetings with senators and regulators, no charter or MBP have been made publicly available, and no notices of meetings have been provided to the public nor minutes of such meetings, as the law requires.

As the agency that is the principal point of contact for DOGE and the DOGE Teams, OMB is responsible for ensuring that DOGE and the DOGE Teams comply with the law. The same is true for the agencies that establish the DOGE Teams. The Center for Biological Diversity therefore formally requests that OMB and the agencies copied here immediately provide the limits and details of the “specific study or other project” that DOGE and the DOGE Teams will undertake pursuant to 5 U.S.C. § 3161, as well as their charter, MBP, and detailed minutes from each meeting of DOGE and/or the DOGE Teams (including between DOGE and the DOGE Teams as well as within the agencies), and any documents generated by or for DOGE and/or the DOGE Teams for those meetings—documents that must be made available to the interested public pursuant to FACA.

The Center has worked for decades to safeguard the environment from the ravages of industrial development. DOGE seeks to target statutes and regulations that are designed to protect the environment, and to reduce the federal workforce and budget in a manner that will impede regulatory oversight of activities that harm the environment. The Center therefore has a direct interest in the openness, accountability, integrity, balance, and legal legitimacy of DOGE and the DOGE Teams.

[dodge-hiring-full-time-salaried-jobs-2025-1](#) (stating that Vinay Hiremath, a former tech executive, had been working for DOGE for four weeks, including “taking meetings and getting shit done”).

¹² Vivek Ramaswamy (@VivekGRamaswamy), X (Nov. 22, 2024, 2:48PM ET), <https://x.com/VivekGRamaswamy/status/1860077973204009310> (stating that Mr. Ramaswamy, on behalf of DOGE, met with Senator Joni Ernst of the DOGE Congressional caucus, thanking her for her suggestions).

¹³ Faiz Siddiqui, *DOGE is dispatching agents across U.S. government*, The Washington Post, Jan. 10, 2025, <https://www.washingtonpost.com/business/2025/01/10/musk-ramaswamy-doge-federal-agencies/> (stating that DOGE already has “more than 50 staffers already working out of the offices of SpaceX”).

Accordingly, the Center puts OMB on notice that we intend to file suit unless we receive, within 14 days, the documents discussed above that FACA requires be made publicly available, along with a formal commitment from OMB and the agencies that the law will be fully complied with before any further DOGE business takes place.

We appreciate your attention to this matter and look forward to your prompt response.

Sincerely,



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