



CITIZENS FOR  
RESPONSIBILITY &  
ETHICS IN WASHINGTON

February 14, 2025

Mr. William J. Bosanko  
Deputy Archivist of the United States  
National Archives and Records Administration  
700 Pennsylvania Avenue NW  
Washington, DC 20408

Administrator  
U.S. DOGE Service  
c/o Office of Management and Budget  
725 17th Street NW, Suite 9272  
Washington, DC 20503

**Re: Notice of Potential Failure to Preserve, Removal or Destruction of Federal Records by DOGE**

Dear Mr. Bosanko and USDS Administrator:

We write to alert you of the potential failure to preserve, removal or destruction of federal records by the so-called "U.S. DOGE Service" ("DOGE"), its staff and Elon Musk. As detailed below, we request the National Archives and Records Administration ("NARA") immediately investigate and take appropriate remedial action in response to any failure by DOGE or its staff, including Mr. Musk, to preserve federal records. We further request that NARA promptly advise Mr. Musk and any DOGE staff that if they have conducted public business on internal communications systems at Mr. Musk's businesses, such communications are federal records that must be preserved. Absent such steps by NARA, we will bring legal action to ensure the government complies with its obligations under the Federal Records Act ("FRA") and other applicable statutes.

Potential federal records created by DOGE, its staff and Mr. Musk include posts and direct messages on Mr. Musk's social media platform, X, including from Mr. Musk's preexisting (@elonmusk) and DOGE's official (@DOGE) X accounts. Communications made through these accounts, as well as accounts on any other social media platform or messaging service, in connection with the transaction of public business may be federal

records that must be preserved pursuant to NARA's mandatory duties under the FRA and other applicable statutes.<sup>1</sup>

On January 20, 2025, President Trump issued an executive order establishing DOGE to "implement the President's DOGE Agenda, by modernizing Federal technology and software to maximize governmental efficiency and productivity."<sup>2</sup> Earlier, President Trump had announced on his social media platform, Truth Social, that Elon Musk would lead DOGE.<sup>3</sup> With Mr. Musk at the helm, DOGE has reportedly sourced staff from Mr. Musk's existing businesses.<sup>4</sup> Mr. Musk appears to be using his own social media platform, X, to conduct DOGE's public business<sup>5</sup> and had recently updated the description of his X account as "White House Tech Support."<sup>6</sup>

Mr. Musk has used his preexisting X account to communicate about, and purportedly to make, decisions concerning DOGE's actions and priorities.<sup>7</sup> He has posted on X to announce DOGE's actions to shut down entire agencies.<sup>8</sup> Mr. Musk has also posted about potential targets of future DOGE action, including at the Treasury Department and the Food and Drug Administration,<sup>9</sup> and on February 4, 2025, posted a poll asking X users, "Would you

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<sup>1</sup> See, e.g., 44 U.S.C. §§ 3106, 2905(a); 36 C.F.R. §§ 1230.14, 1230.16; *Judicial Watch, Inc. v. Kerry*, 844 F.3d 952, 956 (D.C. Cir. 2016).

<sup>2</sup> Establishing and Implementing the President's "Department of Government Efficiency," Exec. Order No. 14, 158, 90 Fed. Reg. 8441 (Jan. 20, 2025), <https://www.whitehouse.gov/presidential-actions/2025/01/establishing-and-implementing-the-presidents-department-of-government-efficiency/>.

<sup>3</sup> Donald J. Trump (@realDonaldTrump), Truth Social (Nov. 12, 2024, 7:46 PM),

<https://truthsocial.com/@realDonaldTrump/posts/113472884874740859>; see Attach. 1, Image 15.

<sup>4</sup> See Shannon Bond et al., *Who is part of Elon Musk's DOGE, and what are they doing?*, NPR (Feb. 7, 2025), <https://www.npr.org/2025/02/07/nx-s1-5288988/doge-elon-musk-staff-trump>; Nick Robins-Early, *Who is helping Elon Musk gut the US government?*, The Guardian (Feb. 8, 2025), <https://www.theguardian.com/us-news/2025/feb/08/elon-musk-doge-team-staff/> ("Several people at Doge come directly from Musk's private companies").

<sup>5</sup> Kate Conger, *Elon Musk's X Becomes Weapon in Government Cost Cutting*, N.Y. Times (Feb. 4, 2025), <https://www.nytimes.com/2025/02/04/technology/elon-musk-x-doge.html>.

<sup>6</sup> See Attach. 1, Image 1.

<sup>7</sup> Elon Musk (@elonmusk), X (Feb. 7, 2025, 11:54 PM),

<https://x.com/elonmusk/status/1888088975656509575>; see Attach. 1, Image 18; Elon Musk (@elonmusk), X (Feb. 8, 2025, 3:26 PM), <https://x.com/elonmusk/status/1888323537372418297>, see

Attach. 1, Image 23; Elon Musk (@elonmusk), X (Feb. 9, 2025, 1:19 AM),

<https://x.com/elonmusk/status/1888472865323856275>; see Attach. 1, Image 24; Elon Musk (@elonmusk), X (Feb. 10, 2025, 5:03 AM), <https://x.com/elonmusk/status/1888891512303263815>; see Attach. 1, Image 25.

<sup>8</sup> Conger, *supra* note 5; Elon Musk (@elonmusk), X (Feb. 3, 2025, 1:54 AM),

<https://x.com/elonmusk/status/1886307316804263979>; see Attach. 1, Image 12; Elon Musk (@elonmusk), X (Feb. 7, 2025, 4:41 PM), <https://x.com/elonmusk/status/1887979940269666769>; see Attach. 1, Image 16.

<sup>9</sup> Conger, *supra* note 5; Elon Musk (@elonmusk), X (Feb. 2, 2025, 2:27 PM),

<https://x.com/elonmusk/status/18861344485822922785>; see Attach. 1, Image 13; Elon Musk (@elonmusk), X (Feb. 5, 2025, 11:14 AM), <https://x.com/elonmusk/status/1887172936924385705>; see Attach. 1, Image 17.

like @DOGE to audit the IRS?”<sup>10</sup> Mr. Musk has also used his preexisting account to communicate the results of discussions with federal agency officials.<sup>11</sup>

Mr. Musk has also used his preexisting X account to communicate about government business, including potential law enforcement actions, with the Interim United States Attorney for the District of Columbia. On February 3, 2025, Interim United States Attorney Edward Martin, Jr., sent a public letter to Mr. Musk via X concerning DOGE.<sup>12</sup> Mr. Musk acknowledged his receipt of the letter on X, replying, “Thank you, receipt via X acknowledged.”<sup>13</sup> On February 7, 2025, Mr. Martin posted an additional letter to Mr. Musk concerning DOGE.<sup>14</sup> The post also noted the letter was “[s]ent only via X.”<sup>15</sup>

Mr. Musk has further used his preexisting X account to communicate about, and purportedly to make, federal government staffing decisions. On February 7, 2025, after a staffer resigned from the Treasury Department following allegations of derogatory social media posts, Vice President Vance responded to a post by Mr. Musk on X about rehiring the staffer.<sup>16</sup> Vice President Vance advocated for the staffer to be brought back,<sup>17</sup> and Mr. Musk responded to the Vice President on X announcing he would rehire the staffer.<sup>18</sup> Mr. Musk has also repeatedly used his X account since January 20, 2025, to post about other issues concerning DOGE staff.<sup>19</sup>

DOGE itself uses its X account to publish information about its policies, functions, and decisions.<sup>20</sup> On November 14, 2024, DOGE posted on X seeking applicants to work at

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<sup>10</sup> Elon Musk (@elonmusk), X (Feb. 4, 2025, 1:39 PM), <https://x.com/elonmusk/status/1886847092888310231>; see Attach. 1, Image 10.

<sup>11</sup> Elon Musk (@elonmusk), X (Feb. 8, 2025, 2:51 PM), <https://x.com/elonmusk/status/1888314848477376744>; see Attach. 1, Image 19.

<sup>12</sup> Ed Martin (@EagleEdMartin), X (Feb. 3, 2025, 11:46 AM), <https://x.com/EagleEdMartin/status/1886456136032817488>; see Attach. 1, Image 2.

<sup>13</sup> Elon Musk (@elonmusk), X (Feb. 3, 2025, 11:49 AM), <https://x.com/elonmusk/status/1886457064438030687>; see Attach. 1, Image 3.

<sup>14</sup> Ed Martin (@EagleEdMartin), X (Feb. 7, 2025, 11:27 AM), <https://x.com/EagleEdMartin/status/1887901087983689761>; see Attach. 1, Image 4.

<sup>15</sup> *Id.*

<sup>16</sup> Bond et al., *supra* note 4.

<sup>17</sup> JD Vance (@JDVance), X (Feb. 7, 2025, 11:26 AM), <https://x.com/JDVance/status/1887900880143343633>; see Attach. 1, Image 5.

<sup>18</sup> Elon Musk (@elonmusk), X (Feb. 7, 2025, 3:13 PM), <https://x.com/elonmusk/status/1887957783783391423?s=46&t=h4w0owjHOsOCLnmDO1ROaQ>; see Attach. 1, Image 6.

<sup>19</sup> Conger, *supra* note 5.

<sup>20</sup> See, e.g., Department of Government Efficiency (@DOGE), X, <https://x.com/doge?lang=en> (last visited Feb. 11, 2025); see Attach. 1, Image 7. See generally Brent D. Griffiths, *Elon Musk said DOGE would provide 'maximum transparency.' It may be years before its records are public.*, Business Insider (Feb. 7, 2025), <https://www.businessinsider.com/musk-doge-records-public-information-foia-presidential-records-act-2025-2>.

DOGE and requesting applicants to direct message their CVs to the DOGE account via X.<sup>21</sup> The DOGE X account also has a grey verification checkmark indicating that Mr. Musk's company, X, has verified it as a "government/multilateral organization" since November 2024.<sup>22</sup> Some government officials, including Office of Management and Budget director Russ Vought and Secretary of Defense Peter Hegseth, also have grey verification checkmarks on their preexisting X accounts.<sup>23</sup> At the time of writing, DOGE's official government homepage prominently features a feed of the DOGE's X account's latest posts under a "Latest work" heading.<sup>24</sup> Other than submitting an application through the DOGE website's "Join" page, it appears the only way to contact the agency is through the DOGE account and Mr. Musk's preexisting account on Mr. Musk's platform.

The DOGE X account has open direct messages, meaning that the account administrator can receive direct messages from anyone with an X account. Since the account was created prior to the beginning of the Trump administration, it is unclear whether the administrator of the account is a current government employee or what mechanisms the account administrator is taking to preserve government records created or received by the account.

Mr. Musk's preexisting X account and the DOGE official account also interact to communicate about and conduct DOGE business. Mr. Musk often shares posts from the official DOGE X account, adding his own interpretations and clarifications.<sup>25</sup> The DOGE X account also shares posts from Mr. Musk's X account.<sup>26</sup> And Mr. Musk responds to X users

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<sup>21</sup> Department of Government Efficiency (@DOGE), X (Nov. 14, 2024, 10:03 AM), <https://x.com/DOGE/status/1857076831104434289>; see Attach. 1, Image 11.

<sup>22</sup> Department of Government Efficiency (@DOGE), X, <https://x.com/doge?lang=en> (last visited Feb. 11, 2025); see Attach. 1, Image 7; *About profile labels and checkmarks on X*, X, <https://help.x.com/en/rules-and-policies/profile-labels> (last visited Feb. 12, 2025); Tom Carter, *Elon Musk's DOGE isn't an official department, yet it has a government checkmark on X*, Business Insider (Nov. 14, 2024),

<https://www.businessinsider.com/elon-musks-doge-gets-a-government-checkmark-on-x-2024-11>.

<sup>23</sup> Russ Vought (@russvought), X, <https://x.com/russvought> (last visited Feb. 11, 2025); see Attach. 1, Image 8; Pete Hegseth (@PeteHegseth), X, <https://x.com/PeteHegseth> (last visited Feb. 11, 2025); see Attach. 1, Image 9.

<sup>24</sup> Department of Government Efficiency, <https://doge.gov/> (last visited Feb. 13, 2025); see Attach. 1, Image 28.

<sup>25</sup> Elon Musk (@elonmusk), X (Jan. 29, 2025, 8:56 AM), <https://x.com/elonmusk/status/1884601571347943773>; see Attach. 1, Image 20; Elon Musk (@elonmusk), X (Feb. 7, 2025, 4:10 PM), <https://x.com/elonmusk/status/1887972336847962314>; see Attach. 1, Image 21.

<sup>26</sup> Department of Government Efficiency (@DOGE), X (Feb. 5, 2025, 9:50 PM), <https://x.com/DOGE/status/1887333006525796682> (replying to Elon Musk (@elonmusk), X (Feb. 5, 2025, 12:09 PM), <https://x.com/elonmusk/status/1887186674263990619>; see Attach. 1, Image 27.); see Attach. 1, Image 26.

responding to posts from the official DOGE X account to add further information and context on DOGE's actions.<sup>27</sup>

Congress enacted the FRA to ensure “[a]ccurate and complete documentation of the policies and transactions of the Federal Government.” 44 U.S.C. § 2902(1). Toward that end, the FRA imposes on DOGE the obligation to “make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions” of each agency. 44 U.S.C. § 3101. Further, the FRA “strictly limits the circumstances under which records can be removed from federal custody or destroyed.”<sup>28</sup>

The FRA further imposes on DOGE's administrator the obligation to “notify the Archivist of any actual, impending, or threatened unlawful removal, defacing, alteration, corruption, deletion, erasure, or other destruction of records in the custody of the agency” and “with the assistance of the Archivist” to “initiate action through the Attorney General for the recovery of [those] records.” 44 U.S.C. § 3106(a). Absent such action by the DOGE administrator, the FRA requires NARA itself to “request the Attorney General to initiate such an action, and shall notify the Congress when such a request has been made.” *Id.* at § 3106(b).

Posts and direct messages on X by DOGE and its staff, including Mr. Musk, in connection with the transaction of public business may be federal records that must be preserved. NARA guidance provides social media content “that is recorded, made or received in the course of Federal business” is a federal record under § 3301 and is subject to federal record retention laws.<sup>29</sup> NARA further provides that “[e]lectronic messages created or received in the course of agency business are Federal records” and lists “Twitter Direct Message”<sup>30</sup> as a form of electronic message that can be a federal record.<sup>31</sup> NARA guidance additionally notes “[a]gencies must articulate clear processes, policies, and recordkeeping roles and responsibilities to ensure social media records are identified, managed, and captured.”<sup>32</sup> Any removal, alteration or deletion of posts and direct messages on X by DOGE, its staff and Mr. Musk is subject to the notice requirements set forth in 44 U.S.C. § 3106.

Additionally, NARA must ensure DOGE, its staff and Mr. Musk preserve any communications made in connection with the transaction of public business using internal

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<sup>27</sup> Elon Musk (@elonmusk), X (Feb. 7, 2025, 9:21 PM), <https://x.com/elonmusk/status/1888050521576984744>; see Attach. 1, Image 22.

<sup>28</sup> *Judicial Watch*, 844 F.3d at 953 (citing 44 U.S.C. § 3105(1)).

<sup>29</sup> National Archives and Records Administration, Bulletin 2014-02, Oct. 25, 2013, available at <https://www.archives.gov/records-mgmt/bulletins/2014/2014-02.html>.

<sup>30</sup> In July 2023, Twitter changed its name to X. See Irina Ivanova, *Twitter is now X. Here's what that means.*, CBS News (July 31, 2023), <https://www.cbsnews.com/news/twitter-rebrand-x-name-change-elon-musk-what-it-means/>.

<sup>31</sup> National Archives and Records Administration, Bulletin 2015-02, July 29, 2015, <https://www.archives.gov/records-mgmt/bulletins/2015/2015-02.html>.

<sup>32</sup> National Archives and Records Administration, *supra* note 29.

communications systems at Mr. Musk's businesses.<sup>33</sup> For example, discussions related to DOGE's actions on X or efforts to amplify posts by Mr. Musk or the DOGE X account could be considered government business. Any such communications in possession of Mr. Musk's private businesses may be alienated federal records subject to the FRA.

DOGE has publicly acknowledged its records are subject to preservation obligations. DOGE advisor Katie Miller posted on X, "Per the Executive Order @DOGE was reorganized under the Executive Office of the President and subject to Presidential Records."<sup>34</sup> Under the Presidential Records Act ("PRA"), "[t]he United States shall reserve and retain complete ownership, possession, and control of Presidential records."<sup>35</sup> While we dispute that all of DOGE's records are categorically subject to the PRA rather than the FRA, even if they are subject to the PRA, they must be preserved.

Despite the agency's requirement to preserve these posts and messages, there is no indication they have done so. We request that NARA take appropriate action, including instructing DOGE to manage and preserve any federal records and to report any unlawful removal, alteration, or destruction of records to NARA. Please promptly confirm in writing that the agencies have commenced the requested actions. Please direct any communications about this matter to Donald Sherman at [alerts@citizensforethics.org](mailto:alerts@citizensforethics.org).

Sincerely,

A handwritten signature in blue ink, appearing to read "D.K. Sherman", with a long horizontal flourish extending to the right.

Donald K. Sherman  
Citizens for Responsibility and Ethics in  
Washington

cc: William P. Fischer, Acting Chief Records Officer, National Archives and Records Administration; Elon Musk

Attachment: Screenshots of cited social media posts

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<sup>33</sup> *Documenting Your Public Service*, National Archives and Records Administration, <https://www.archives.gov/records-mgmt/publications/documenting-your-public-service.html> (last visited Feb. 10, 2025); 44 U.S.C. § 3301.

<sup>34</sup> Katie Miller (@katierosemiller), X (Feb. 5, 2025, 8:26 PM), <https://x.com/katierosemiller/status/1887311943062499425>; see Attach. 1, Image 14; see also Griffiths, *supra* note 20.

<sup>35</sup> 44 U.S.C. § 2202.

# **Attachment 1**

Image 1:



Captured Feb. 5, 2025

Image 2:



Captured Feb. 11, 2025

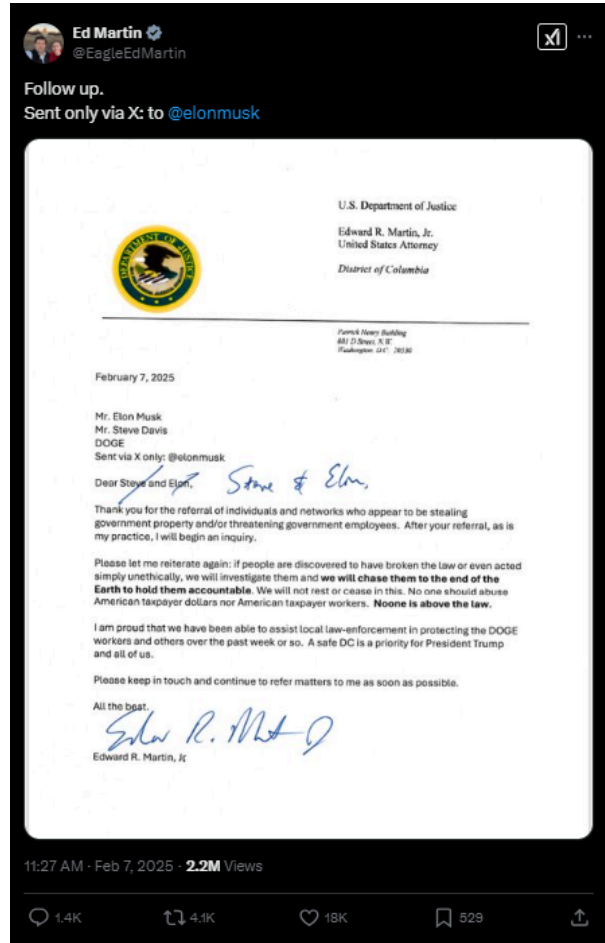


Image 3:



Captured Feb. 11, 2025

Image 4:



Captured Feb. 11, 2025

Image 5:



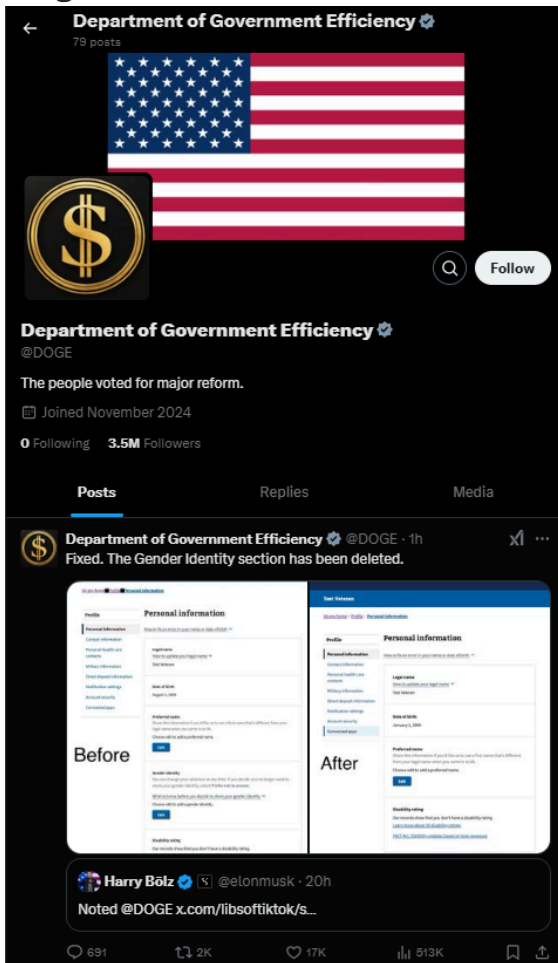
Captured Feb. 11, 2025

Image 6:



Captured Feb. 11, 2025

Image 7:



Captured Feb. 11, 2025

Image 8:



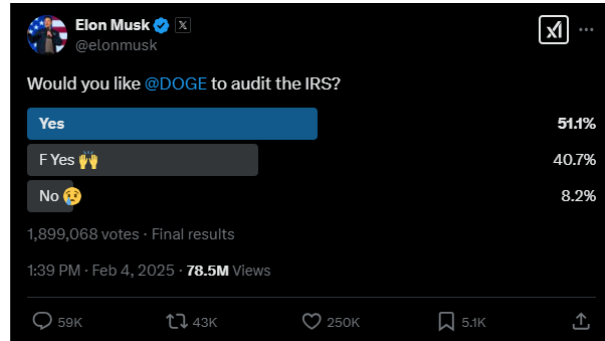
Captured Feb. 11, 2025

Image 9:



Captured Feb. 11, 2025

Image 10:



Captured Feb. 11, 2025

Image 11:



Captured Feb. 11, 2025

Image 12:



Captured Feb. 11, 2025

Image 13:



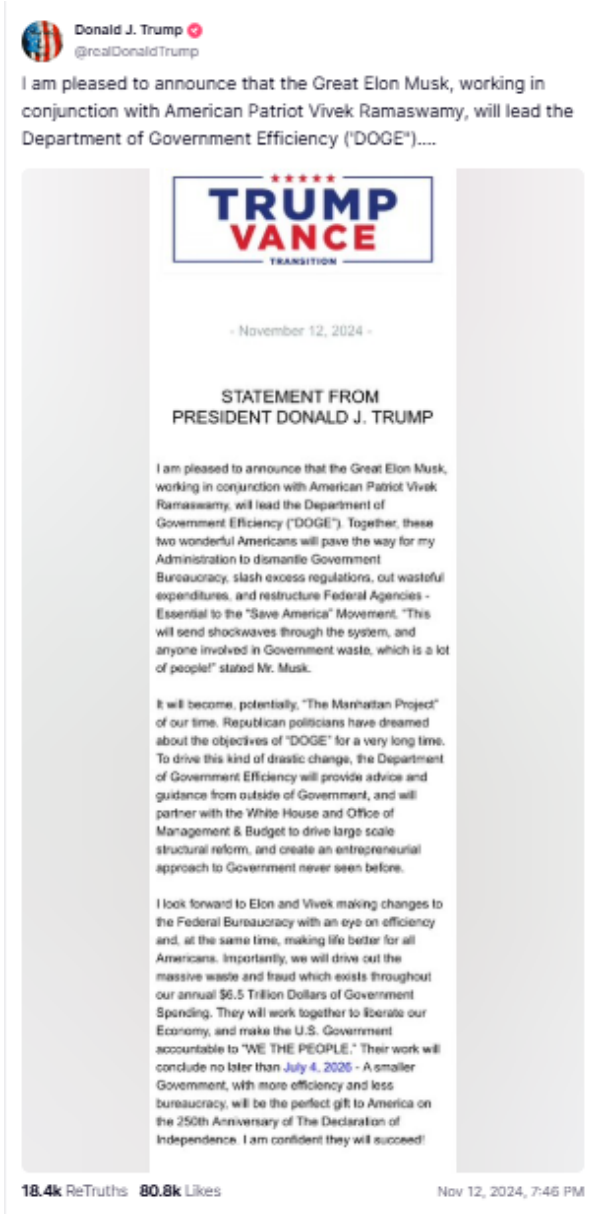
Captured Feb. 11, 2025

Image 14:



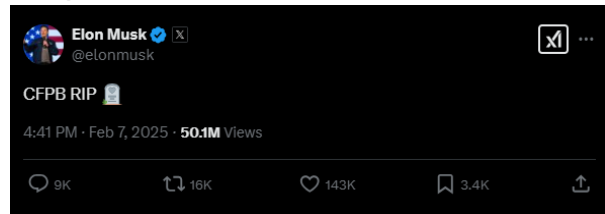
Captured Feb. 11, 2025

Image 15:



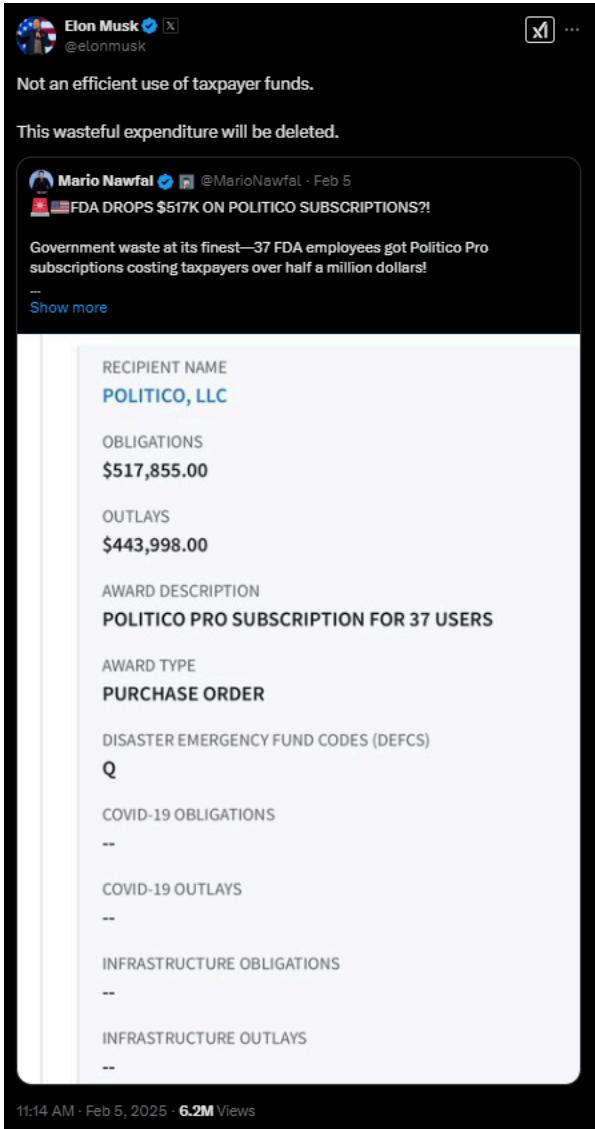
Captured Feb. 11, 2025

Image 16:



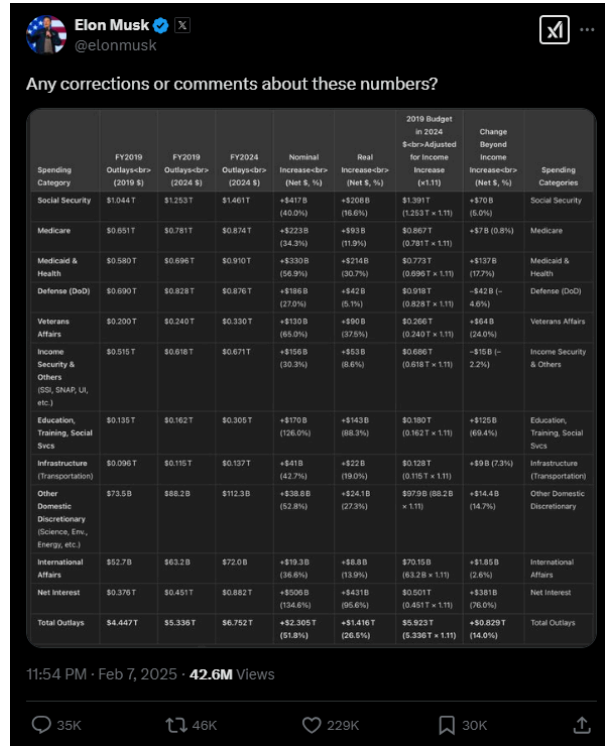
Captured Feb. 12, 2025

Image 17:



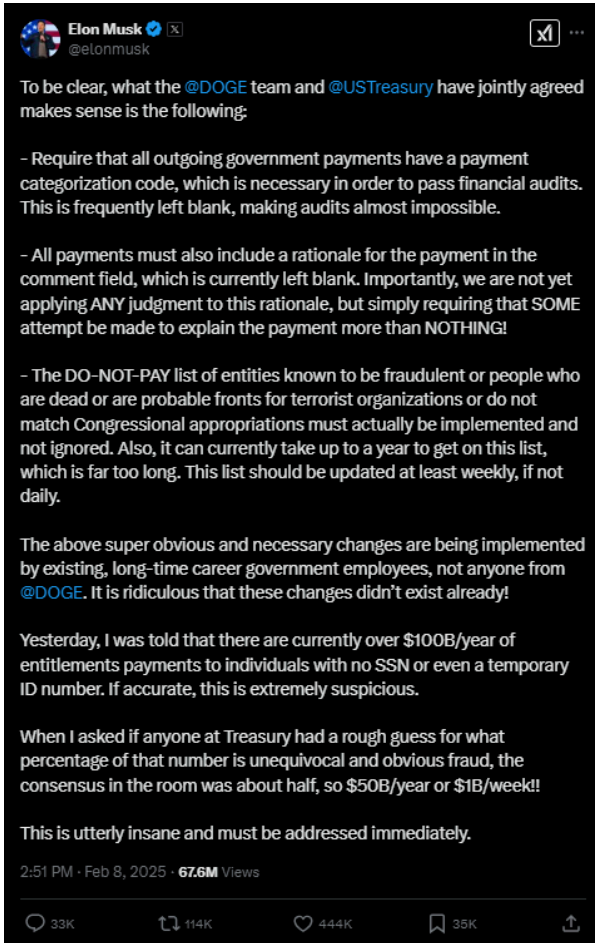
Captured Feb. 12, 2025

Image 18:



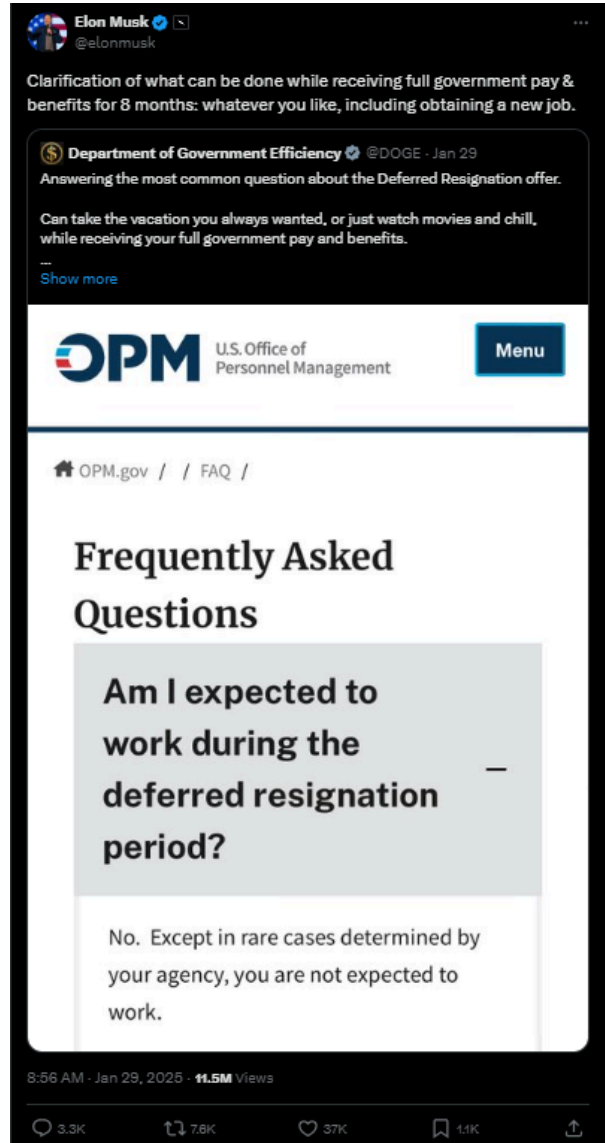
Captured Feb. 12, 2025

Image 19:



Captured Feb. 12, 2025

Image 20:



Captured Feb. 12, 2025

Image 21:



Captured Feb. 12, 2025

Image 22:



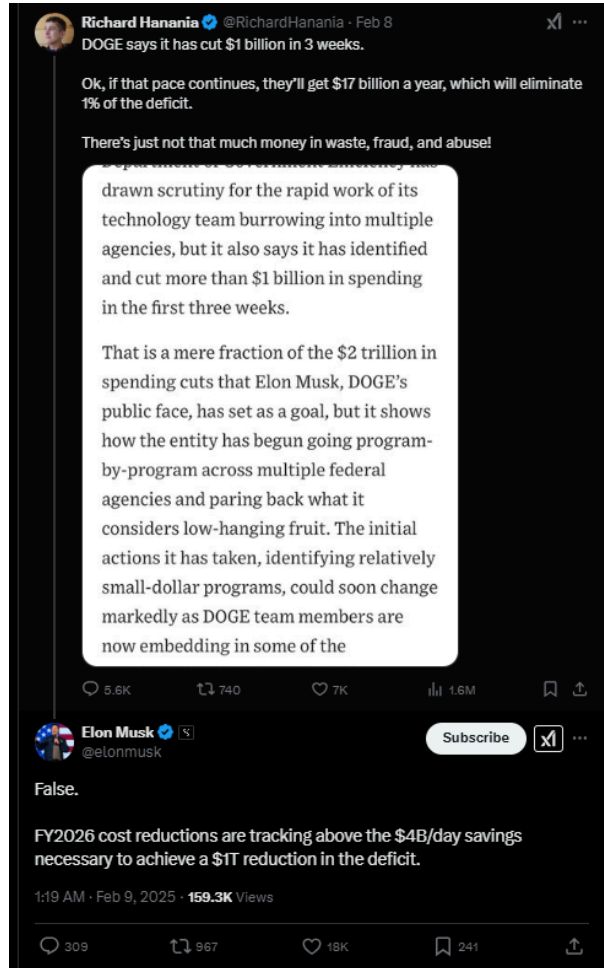
Captured Feb. 12, 2025

Image 23:



Captured Feb. 12, 2025

Image 24:



Captured Feb. 12, 2025

Image 25:



Captured Feb. 12, 2025

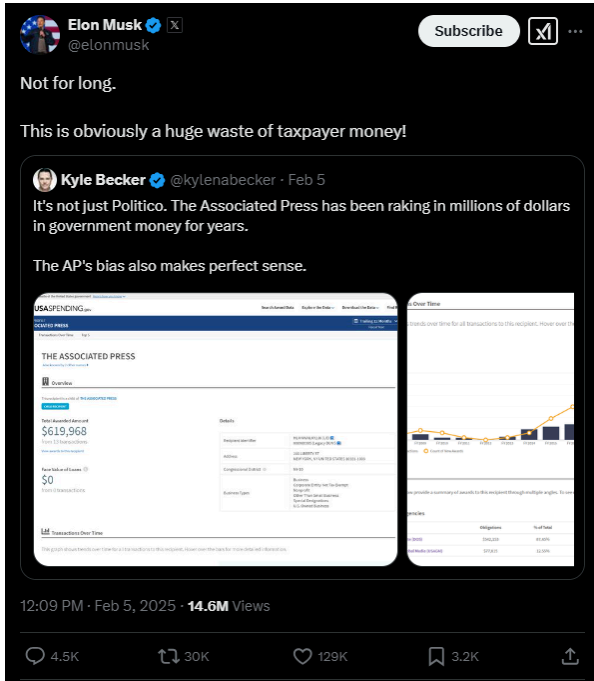
Image 26:



Captured Feb. 12, 2025

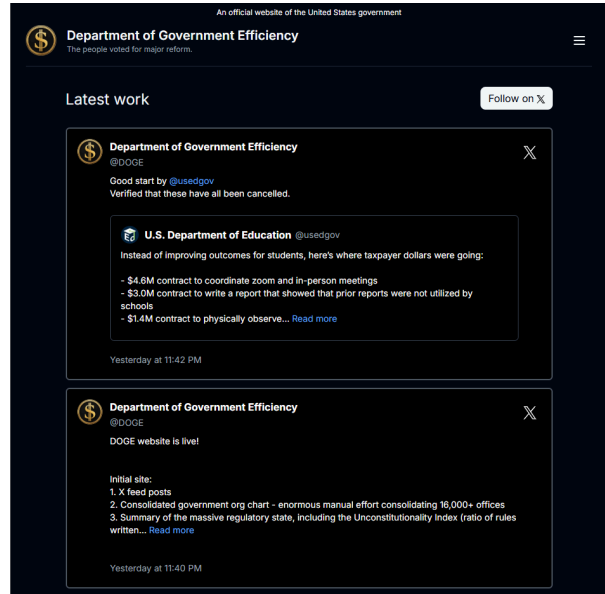


Image 27:



Captured Feb. 12, 2025

Image 28:



Captured Feb. 13, 2025