

United States Senate

WASHINGTON, DC 20510

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SMALL BUSINESS AND
ENTREPRENEURSHIP

February 10, 2025

David Huitema
Director
U.S. Office of Government Ethics
250 E Street, SW, Suite 750
Washington, DC 20024

Dear Director Huitema,

I am writing to request that the Office of Government Ethics clarify Elon Musk's compliance with federal conflicts of interest, ethics, and reporting requirements in light of his activities within the Executive Office of the President since January 20, 2025, and his access to sensitive government information while he retains significant financial interests in multiple private companies that benefit from federal government contracts.

According to a White House official, Mr. Musk is serving in the Administration as a "special government employee," which makes him subject to the federal criminal conflict of interest statute, as well as other legal and ethical obligations.¹ The federal criminal conflict of interest statute, in particular, prohibits government employees, including special government employees, from participating personally and substantially in official matters where they have a financial interest.²

Mr. Musk holds substantial financial interests in private companies, including Tesla, Inc., SpaceX, The Boring Company, xAI, X Corp., and Neuralink. According to public reporting, Tesla, Inc. and SpaceX alone account over the past decade for at least \$15.4 billion in government contracts across a dozen agencies.³ Mr. Musk's companies have also been the subject of at least 20 recent investigations or reviews by federal agencies, which heightens the risk that Mr. Musk may seek to use his new position to shield his companies from federal scrutiny.⁴

¹ Kaitlan Collins & Tierney Sneed, *Elon Musk is serving as a 'special government employee,' White House says*, CNN (February 3, 2025), <https://www.cnn.com/2025/02/03/politics/musk-government-employee/index.html>.

² 18 U.S.C. § 208. See U.S. Office of Government Ethics, "Analyzing Potential Conflicts of Interest," <https://www.oge.gov/web/oge.nsf/Resources/Analyzing+Potential+Conflicts+of+Interest>.

³ Eric Lipton, David A. Fahrenthold, Aaron Krolik & Kirsten Grind, *U.S. Agencies Fund, and Fight With, Elon Musk. A Trump Presidency Could Give Him Power Over Them*, (October 20, 2024), <https://www.nytimes.com/2024/10/20/us/politics/elon-musk-federal-agencies-contracts.html>.

⁴ *Id.*

On February 5, 2025, White House Press Secretary Karoline Leavitt stated at a press briefing: “If Elon Musk comes across a conflict of interest with the contracts and the funding that DOGE is overseeing, then Elon will excuse himself from those contracts.” Notwithstanding this assertion, Mr. Musk’s compliance with federal conflicts of interest and other related obligations remains unknown to Congress and the public. For instance, unless the White House Chief of Staff or another senior White House official, in consultation with the Office of Government Ethics, provided a written waiver *prior* to Mr. Musk’s appointment as a special government employee, Mr. Musk may have violated the federal criminal conflict of interest statute by undertaking acts otherwise prohibited by law.

To ensure transparency, which is essential to maintaining congressional and public trust, and to inform the Senate’s legislative function, including to review the applicability of existing statutes and consider possible reforms to further strengthen them, please respond to the following questions by February 13, 2025:

1. Has Mr. Musk completed a financial disclosure report, consistent with 5 U.S.C. §13103?
2. Consistent with 18 U.S.C. § 208 and in his capacity as a special government employee, to your knowledge, has Mr. Musk or is Mr. Musk currently participating “personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which, to his knowledge, he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest”?
3. Did the Office of Government Ethics consult with and provide advice to the White House regarding Mr. Musk’s private financial interests *prior* to Mr. Musk’s appointment as a special government employee?
4. To your knowledge, did any White House official issue a written waiver exempting Mr. Musk from the penalties set forth in 18 U.S.C. § 208?
 - a. If so and in OGE’s possession, please produce a written copy of the waiver, the date you were made aware of the waiver, and clarify whether the waiver was issued pursuant to 18 U.S.C. § 208(b)(1) or (b)(3).

- b. If such a written waiver was issued *after* Mr. Musk's appointment as a special government employee, please clarify that Mr. Musk did not act in any official capacity prior to the issuance of the waiver.
5. Please provide the same information requested above for any other type of ethics waiver Mr. Musk received, including authorizations to participate pursuant to 5 C.F.R. 2635.502(d) or waivers issued pursuant to 5 U.S.C. § 13103(h).

Mr. Musk's activities, access to sensitive federal government information, and potential financial conflicts of interest also raise significant questions about Mr. Musk's foreign entanglements and the activities and possible conflicts of other individuals associated with the "Department of Government Efficiency," which will be the focus of forthcoming requests for information and records that are needed for the U.S. Senate to exercise its essential oversight and legislative functions.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam B. Schiff". The signature is fluid and cursive, with the first name "Adam" and last name "Schiff" being clearly legible.

Adam B. Schiff
United States Senator

cc: Susan Wiles
White House Chief of Staff