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Description of document: Department of Justice (DOJ) Justice Management Division (JMD) Memorandum of Understanding between the DOJ and the Trump transition team regarding FBI background checks 2017, 2024

Requested date: 06-December-2024

Release date: 29-May-2025

Posted date: 22-December-2025

Source of document: FOIA Contact
Justice Management Division
Department of Justice
Room 1111 RFK, 950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001
Email: JMDFOIA@usdoj.gov
FOIA.gov

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U.S. Department of Justice

Justice Management Division

Washington, D.C. 20530

May 29, 2025

VIA EMAIL

RE: JMD FOIA # 135868

I am responding on behalf of the Justice Management Division (JMD) to your Freedom of Information Act (FOIA) request dated December 06, 2024, for the following:

1. Any and all versions of the Memorandum of Understanding (MOU) signed on December 3, 2024, by the Department of Justice (DOJ) and the 2024 Trump 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 that MOU including, but not limited to, any contracts with private vendors that the 2024 Trump 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 DOJ.
3. Any and all documents related to the 2024 Trump transition team's process for conducting or not conducting background checks of the president-elect's senior nominees from September 1, 2024, to the present, including, but not limited to, any internal or external communications with DOJ or FBI personnel about private vendors that the 2024 Trump transition team has engaged or will engage to conduct background checks of the president-elect's senior nominees; any and all vetting information collected or received by DOJ or FBI personnel about such private vendors; and any documents or emails discussing payment to such private vendors.

We conducted a search within JMD and enclosed are records responsive to part 1 of your request with exempt information withheld. Specifically, we withheld privileged information under FOIA Exemption 5 (5 U.S.C. § 552(b)(5)), which exempts from disclosure inter- and intra-agency communications protected by the deliberative process privilege and the attorney-client privilege. In addition, we withheld certain information under FOIA Exemptions 6 and 7C (5 U.S.C. §§ 552(b)(6) and 552(b)(7)(C), respectively), because disclosure would constitute an

unwarranted invasion of personal privacy while not shedding light on the operations and activities of the government. Moreover, we determined that the privacy interests in the information outweigh any public interest in its disclosure. With regard to parts 2 and 3 of your request, we found no responsive records. Please be advised that we considered the foreseeable harm standard when reviewing records and applying FOIA exemptions.

You may contact JMD's public FOIA liaison, Daniel Wagner, at (202) 616-0253 or JMDFOIA@usdoj.gov, for further assistance or to discuss your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about FOIA mediation services. The contact information for OGIS is: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, MD 20740-6001; email ogis@nara.gov; telephone (202) 741-5770 or toll-free (877) 684-6448; facsimile (202) 741-5769.

If you are not satisfied with JMD's determination in response to your request, you may administratively appeal by writing to: Director, Office of Information Policy (OIP), U.S. Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website (<https://www.justice.gov/oip/submit-and-track-request-or-appeal>). Your appeal must be postmarked or electronically transmitted within 90 days of the date of this letter. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

JOHN THOMPSON

Digitally signed by JOHN
THOMPSON

Date: 2025.05.29 14:26:01 -04'00'

John E. Thompson
Deputy General Counsel

From: "Tang, Evelyn (JMD)" (b) (6)

To: "Lauria, Jolene A. (JMD)" (b) (6)

Cc: "Posner, Morton J. (JMD)" (b) (6) "Thompson, John E. (JMD)"
(b) (6) "Gunning, Christine E. (JMD)"
(b) (6)

Subject: Trump Team Post-elect MOU draft

Date: Thu, 31 Oct 2024 17:29:51 -0400

Importance: Normal

Attachments: Draft_Post-Election_Security_MOU_-_DOJ_and_DJT_Presidential_Transition_Team_10-31-2024.docx

Jolene,
Here is a draft post-election MOU with the Trump Transition Team.

Evelyn Tang
Senior Assistant General Counsel
Office of General Counsel
Justice Management Division
(b) (6) (DOJ mobile)

MEMORANDUM OF UNDERSTANDING

Between the
DEPARTMENT OF JUSTICE

and the
TRUMP PRESIDENTIAL TRANSITION

Regarding Name Checks and Background Investigations
conducted by the Federal Bureau of Investigation and
Adjudications by the Department of Justice

ELECTION 2024

1. Background

This Memorandum of Understanding (MOU) covers the procedures for Donald J. Trump, or an authorized designee of the Trump Presidential Transition (collectively "TPT"), to submit requests for name checks and background investigations for candidates for high-level national security positions through the level of undersecretary of cabinet departments in a new presidential administration, Agency Review Team members, and other individuals described below, to the Federal Bureau of Investigation (FBI), as well as the responsibilities of the FBI and the Department of Justice (DOJ) in connection with the requested investigations so that key Administration positions can be assumed without undue delay.¹ This MOU is made consistent with the purposes of Section 2 of the Presidential Transition Act of 1963, as amended.

2. Purpose

- a) The FBI will conduct file reviews ("name checks") and background investigations at the request of the TPT for applicants, employees, or any other persons expected to be engaged by contract or otherwise to perform services for the TPT or new administration (hereafter the subject of the requested name check, or background investigation shall be referred to as the "Appointee").
- b) Name checks and background investigations shall be conducted only to ascertain facts and information relevant to the Appointee's suitability for Federal government employment or fitness to serve as a contractor, employee, or volunteer in accordance with Executive Order 13467, as amended; and to determine the Appointee's trustworthiness for clearance to access information

¹ A name check consists of searching names that have been indexed as part of FBI criminal, national security, and background investigations to include other National Agency checks as appropriate. A background investigation may be a single scope background investigation, a 5-year reinvestigation, an expanded name check, a limited update, or a limited inquiry (such as follow-up inquiries conducted to resolve issues/questions).

classified under the provisions of Executive Order 13467, as amended, Executive Order 13526 (or any successor Executive Orders) and its implementing directives. The result of these name checks and background investigations will permit the Appointee to be adjudicated for suitability, fitness, or the appropriate clearance (including interim clearances when appropriate), including access to Sensitive Compartmented Information, in accordance with the standards set forth in Security Executive Agent Directive (SEAD) 4 and by any modifying policy memorandum or successor directive issued by the Office of the Director of National Intelligence.

3. Procedures for Submitting Requests

- a) The TPT shall make requests for FBI background investigations and name checks of Appointees in writing. Such requests shall be made by an official who has been designated in writing to make such requests.
- b) The TPT will provide the FBI via official correspondence with the title(s), name(s), and signature(s) of the person(s) designated to make such requests and will apprise the FBI by official correspondence of any changes in approval authority.
- c) All background investigation and name check requests must be submitted on the FBI's approved forms and must contain the verified signature of the designated official.
- d) The consent signed by the Appointee must be dated not earlier than 30 days from the date it is submitted to the FBI, except that an updated consent is not required for follow-up inquiries that are reasonably viewed as within the ambit of a previously-provided consent (e.g., when the TPT asks the FBI to develop further matters raised in support of a background investigation to which the Appointee consented). Requests for supplemental inquiries made within 6 months of the date of the Appointee's signed consent, within 30 days of the FBI's final report, or while an Appointee's confirmation is pending will be presumed to be within the ambit of the original consent.
- e) The reason for each name check or background investigation shall be indicated on the form and shall include the position for which the Appointee is being considered. No material changes will be made to the form's content or format without the written concurrence of the FBI.
- f) Each request for a name check or background investigation shall also include: (1) a completed Standard Form 86 (SF-86) (Questionnaire for National Security Positions); (2) a set of the Appointee's fingerprints on a standardized fingerprint card, or electronically submitted; and (3) a completed request form signed by the Appointee acknowledging his or her consent to be investigated, and acknowledging that information gathered shall be retained consistent with

applicable FBI and Department of Justice (DOJ) systems of records notices and records retention schedules.

- g) If a request form is missing any of the information included in (e) or (f), above, the FBI will not be able to complete it, with the limited exception discussed below in 4(e).
- h) While a background investigation is pending, if the TPT determines that the Appointee is not to be employed, serve as a contractor, or no longer needs a security clearance, the TPT will promptly notify the FBI so the background investigation or name check may be discontinued.

4. Reporting Results of Investigation

- a) Except as provided below, if during the course of the name check or background investigation, the FBI discovers adverse information regarding the Appointee, the FBI, through the Assistant Attorney General for Administration (AAG/A), who is the Department's lead transition official, or the AAG/A's designee, will promptly inform the TPT.
- b) A name check or background investigation report is a snapshot in time that reflects the applicable information available to FBI upon completion of its name check or background investigation. The TPT should submit a new request if updated information is desired. However, prior to an Appointee's assuming the position or being adjudicated for the clearance for which the investigation was conducted, if the FBI becomes aware of additional adverse information about the Appointee, the FBI, through the AAG/A (or their designee), will so apprise the TPT.
- c) The FBI, when appropriate, will furnish reports and/or supporting materials, which contain the results of its name check and background investigations to the TPT as permitted by law and policy, and will retain records of the persons to whom such reports are furnished.
- d) DOJ will receive reports containing the results of the FBI's name checks and background investigations for high-level national security positions through the level of undersecretary of cabinet departments, Agency Review Team members, high-level DOJ appointees, and high-level White House Staff, as requested. Until noon on the date of inauguration, the DOJ, or other appropriate agency to which DOJ refers the matter, will make a determination whether to grant those Appointees appropriate national security clearances. For other name checks and background investigations requested by the TPT, the FBI will provide the results to the individual(s) designated by the TPT to receive such reports.
- e) The DOJ and the FBI may consider a request from the TPT for a name check

or background investigation without the consent of the Appointee if justified by extraordinary circumstances. Such circumstances shall be documented in writing from the TPT to the Deputy Attorney General through the AAG/A and the FBI General Counsel and should explain why the Appointee's consent cannot be obtained or should not be sought.

5. Use and Maintenance of Investigative Reports

- a) The TPT will ensure that access to these reports is restricted to persons directly involved in ensuring the safety and security of Donald J. Trump or making a determination as to an Appointee's suitability or fitness for employment/appointment/recognition or trustworthiness for access to sensitive (e.g., law enforcement matters, personal information about individuals, privileged commercial or financial information, etc.) or classified information. The TPT may also afford access to these reports to the United States Secret Service or the Office of Security and Emergency Preparedness for the Executive Office of the President upon a determination that any such additional recipient has a legitimate need to know the information for the proper performance of official responsibilities and that any such disclosure is not otherwise precluded by applicable law.
- b) The TPT shall maintain, disseminate, and dispose of name check and background investigation records and reports in accordance with applicable legal requirements, including the Privacy Act. The TPT shall maintain records identifying all persons receiving access to these records and reports, and such TPT records shall be furnished to the FBI upon request.
- c) The TPT will ensure that all reports received, and any copies made of those reports will be retained until a successor agreement or January 20, 2025, whichever comes first, at which time the reports shall be provided to an appropriate Executive Branch official to be retained in accordance with applicable legal requirements.
- d) The TPT may not allow the Appointee or any person outside of the appointment, employment, security clearance, confirmation, Presidential recognition, or Presidential protection processes direct access to the reports, copies of the reports, or any information derived from the reports. If deemed necessary to discuss the contents of reports with the Appointee, the TPT will ensure that the confidentiality of the sources contained therein will be protected in accordance with applicable legal requirements. Any request by the Appointee for access to the reports will be referred to the FBI for processing in accordance with both the Privacy Act and the Freedom of Information Act.
- e) Information obtained during a name check or background investigation will be retained by the FBI in accordance with FBI Privacy Act systems of records notices and records retention schedules. Certain information relating to

pending federal civil or criminal matters may be disseminated on a need-to-know basis to other officials of the DOJ or other appropriate agencies to which the DOJ refers the matter. No further dissemination shall be made of information obtained during any investigation conducted pursuant to this agreement, except as part of an investigation of a violation of law, or otherwise as permitted or required by federal statute, FBI/DOJ regulation or policy, or Presidential directive or Executive order.

- f) No person employed by or representing the TPT shall be given access to any classified information or material until appropriate clearance for access to such information and materials has been granted by the DOJ or other appropriate agency. The TPT will provide the appropriate authority with a list of persons cleared for access to classified information, and the TPT will advise the appropriate authority when an individual granted a clearance terminates employment with, or representation of, the TPT or otherwise no longer requires access to sensitive or classified material.

6. Effect of this Agreement

- a) This MOU takes effect after the election with respect to a candidate who is determined to be an apparent successful candidate in accordance with the Presidential Transition Act. The MOU shall remain in effect until noon on January 20, 2025, or as otherwise agreed to by the parties. If there is a period of multiple possible apparent successful candidates, each candidate will be provided the services provided in this MOU until such time as a single candidate is determined to be the sole apparent successful candidate pursuant to the Presidential Transition Act. At that time, this MOU shall continue in effect for the sole apparent successful candidate but terminate for all other candidates.
- b) This MOU is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law or otherwise by any third party against any of the parties, their parent entities, the United States, or the officers, employees, agents, or other associated personnel thereof.
- c) This MOU is not an obligation or commitment of funds, nor a basis for transfer of funds, but rather is a basic statement of the understanding between the parties of the matters described herein. Expenditures by each party will be subject to its budgetary processes and to the availability of funds and resources pursuant to applicable laws, regulations, and policies. The parties expressly acknowledge that the language in this MOU in no way implies that funds will be made available for such expenditures.
- d) The parties acknowledge that this MOU does not alter applicable law governing any claim for civil liability arising out of any activity conducted

MOU for FBI Background Investigations and DOJ Adjudications, Election 2024

pursuant to this MOU or otherwise relating to this MOU.

- e) This MOU will be effective upon signatures by both parties. This MOU may be amended only by a written document signed by both parties.

Jolene Ann Lauria
Assistant Attorney General
for Administration
Department of Justice

Date: .

Trmp Presidential Transition

Date: .

From: "Collier, Nikki (JMD)" (b) (6)

To: "Posner, Morton J. (JMD)" (b) (6)

Cc: "Lauria, Jolene A. (JMD)" (b) (6), "Gunning, Christine E. (JMD)" (b) (6), "Tang, Evelyn (JMD)" (b) (6)

Subject: ***TIME SENSITIVE*** Post Election MOU - DOJ and Trump Presidential Transition Team 2024 (Requested by: ASAP)

Date: Mon, 04 Nov 2024 12:30:01 -0500

Importance: High

Attachments: Post_Election_MOU_-_DOJ_and_Trump_Presidential_Transition_Team_2024.docx

Morty,

The Trump team has requested a copy of the post-election MOU. I revised the Harris memo that is fully signed with reference to Trump.

May you or your team review urgently and make any corrections so Jolene can send this to the Federal Transition Coordinator ASAP.

Thank you in advance.

v/r,

Nikki

Dr. Shantrell N. Collier

Chief of Staff

to the Assistant Attorney General for Administration

Justice Management Division (JMD)

U.S. Department of Justice (DOJ)

Office: (b) (6) | Mobile: (b) (6)

Email: (b) (6)

MEMORANDUM OF UNDERSTANDING

Between the
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- c) The FBI, when appropriate, will furnish reports and/or supporting materials, which contain the results of its name check and background investigations to the TPT as permitted by law and policy, and will retain records of the persons to whom such reports are furnished.
- d) DOJ will receive reports containing the results of the FBI's name checks and background investigations for high-level national security positions through the level of undersecretary of cabinet departments, Agency Review Team members, high-level DOJ appointees, and high-level White House Staff, as requested. Until noon on the date of inauguration, the DOJ, or other appropriate agency to which DOJ refers the matter, will make a determination whether to grant those Appointees appropriate national security clearances. For other name checks and background investigations requested by the TPT, the FBI will provide the results to the individual(s) designated by the TPT to receive such reports.
- e) The DOJ and the FBI may consider a request from the TPT for a name check

or background investigation without the consent of the Appointee if justified by extraordinary circumstances. Such circumstances shall be documented in writing from the TPT to the Deputy Attorney General through the AAG/A and the FBI General Counsel and should explain why the Appointee's consent cannot be obtained or should not be sought.

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- c) The TPT will ensure that all reports received, and any copies made of those reports will be retained until a successor agreement or January 20, 2025, whichever comes first, at which time the reports shall be provided to an appropriate Executive Branch official to be retained in accordance with applicable legal requirements.
- d) The TPT may not allow the Appointee or any person outside of the appointment, employment, security clearance, confirmation, Presidential recognition, or Presidential protection processes direct access to the reports, copies of the reports, or any information derived from the reports. If deemed necessary to discuss the contents of reports with the Appointee, the TPT will ensure that the confidentiality of the sources contained therein will be protected in accordance with applicable legal requirements. Any request by the Appointee for access to the reports will be referred to the FBI for processing in accordance with both the Privacy Act and the Freedom of Information Act.
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pending federal civil or criminal matters may be disseminated on a need-to-know basis to other officials of the DOJ or other appropriate agencies to which the DOJ refers the matter. No further dissemination shall be made of information obtained during any investigation conducted pursuant to this agreement, except as part of an investigation of a violation of law, or otherwise as permitted or required by federal statute, FBI/DOJ regulation or policy, or Presidential directive or Executive order.

- f) No person employed by or representing the TPT shall be given access to any classified information or material until appropriate clearance for access to such information and materials has been granted by the DOJ or other appropriate agency. The TPT will provide the appropriate authority with a list of persons cleared for access to classified information, and the TPT will advise the appropriate authority when an individual granted a clearance terminates employment with, or representation of, the TPT or otherwise no longer requires access to sensitive or classified material.

6. Effect of this Agreement

- a) This MOU takes effect after the election with respect to a candidate who is determined to be an apparent successful candidate in accordance with the Presidential Transition Act. The MOU shall remain in effect until noon on January 20, 2025, or as otherwise agreed to by the parties. If there is a period of multiple possible apparent successful candidates, each candidate will be provided the services provided in this MOU until such time as a single candidate is determined to be the sole apparent successful candidate pursuant to the Presidential Transition Act. At that time, this MOU shall continue in effect for the sole apparent successful candidate but terminate for all other candidates.
- b) This MOU is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law or otherwise by any third party against any of the parties, their parent entities, the United States, or the officers, employees, agents, or other associated personnel thereof.
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pursuant to this MOU or otherwise relating to this MOU.

- e) This MOU will be effective upon signatures by both parties. This MOU may be amended only by a written document signed by both parties.

Jolene Ann Lauria
Assistant Attorney General
for Administration
Department of Justice

[Transition Director]
Trump Presidential Transition

Dated: _____

Dated: _____

From: "Collier, Nikki (JMD)" (b) (6)

To: "Lauria, Jolene A. (JMD)" (b) (6)

Subject: ***READY FOR AAG/A*** Trump Post-Election MOU - DRAFT

Date: Mon, 04 Nov 2024 13:51:10 -0500

Importance: High

Attachments: Post_Election_MOU_-_DOJ_and_Trump_Presidential_Transition_Team_2024_11.04.2024_(DRAFT).docx

Jolene,

This draft is ready for you to share.

v/r,
Nikki

Dr. Shantrell N. Collier
Chief of Staff
to the Assistant Attorney General for Administration
Justice Management Division (JMD)
U.S. Department of Justice (DOJ)
Office: (b) (6) | Mobile: (b) (6)
Email: (b) (6)

MEMORANDUM OF UNDERSTANDING

Between the
DEPARTMENT OF JUSTICE

and the
TRUMP PRESIDENTIAL TRANSITION

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- a) The FBI will conduct file reviews ("name checks") and background investigations at the request of the TPT for applicants, employees, or any other persons expected to be engaged by contract or otherwise to perform services for the TPT or new administration (hereafter the subject of the requested name check, or background investigation shall be referred to as the "Appointee").
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classified under the provisions of Executive Order 13467, as amended, Executive Order 13526 (or any successor Executive Orders) and its implementing directives. The result of these name checks and background investigations will permit the Appointee to be adjudicated for suitability, fitness, or the appropriate clearance (including interim clearances when appropriate), including access to Sensitive Compartmented Information, in accordance with the standards set forth in Security Executive Agent Directive (SEAD) 4 and by any modifying policy memorandum or successor directive issued by the Office of the Director of National Intelligence.

3. Procedures for Submitting Requests

- a) The TPT shall make requests for FBI background investigations and name checks of Appointees in writing. Such requests shall be made by an official who has been designated in writing to make such requests.
- b) The TPT will provide the FBI via official correspondence with the title(s), name(s), and signature(s) of the person(s) designated to make such requests and will apprise the FBI by official correspondence of any changes in approval authority.
- c) All background investigation and name check requests must be submitted on the FBI's approved forms and must contain the verified signature of the designated official.
- d) The consent signed by the Appointee must be dated not earlier than 30 days from the date it is submitted to the FBI, except that an updated consent is not required for follow-up inquiries that are reasonably viewed as within the ambit of a previously-provided consent (e.g., when the TPT asks the FBI to develop further matters raised in support of a background investigation to which the Appointee consented). Requests for supplemental inquiries made within 6 months of the date of the Appointee's signed consent, within 30 days of the FBI's final report, or while an Appointee's confirmation is pending will be presumed to be within the ambit of the original consent.
- e) The reason for each name check or background investigation shall be indicated on the form and shall include the position for which the Appointee is being considered. No material changes will be made to the form's content or format without the written concurrence of the FBI.
- f) Each request for a name check or background investigation shall also include: (1) a completed Standard Form 86 (SF-86) (Questionnaire for National Security Positions); (2) a set of the Appointee's fingerprints on a standardized fingerprint card, or electronically submitted; and (3) a completed request form signed by the Appointee acknowledging his or her consent to be investigated, and acknowledging that information gathered shall be retained consistent with

applicable FBI and Department of Justice (DOJ) systems of records notices and records retention schedules.

- g) If a request form is missing any of the information included in (e) or (f), above, the FBI will not be able to complete it, with the limited exception discussed below in 4(e).
- h) While a background investigation is pending, if the TPT determines that the Appointee is not to be employed, serve as a contractor, or no longer needs a security clearance, the TPT will promptly notify the FBI so the background investigation or name check may be discontinued.

4. Reporting Results of Investigation

- a) Except as provided below, if during the course of the name check or background investigation, the FBI discovers adverse information regarding the Appointee, the FBI, through the Assistant Attorney General for Administration (AAG/A), who is the Department's lead transition official, or the AAG/A's designee, will promptly inform the TPT.
- b) A name check or background investigation report is a snapshot in time that reflects the applicable information available to FBI upon completion of its name check or background investigation. The TPT should submit a new request if updated information is desired. However, prior to an Appointee's assuming the position or being adjudicated for the clearance for which the investigation was conducted, if the FBI becomes aware of additional adverse information about the Appointee, the FBI, through the AAG/A (or their designee), will so apprise the TPT.
- c) The FBI, when appropriate, will furnish reports and/or supporting materials, which contain the results of its name check and background investigations to the TPT as permitted by law and policy, and will retain records of the persons to whom such reports are furnished.
- d) DOJ will receive reports containing the results of the FBI's name checks and background investigations for high-level national security positions through the level of undersecretary of cabinet departments, Agency Review Team members, high-level DOJ appointees, and high-level White House Staff, as requested. Until noon on the date of inauguration, the DOJ, or other appropriate agency to which DOJ refers the matter, will make a determination whether to grant those Appointees appropriate national security clearances. For other name checks and background investigations requested by the TPT, the FBI will provide the results to the individual(s) designated by the TPT to receive such reports.
- e) The DOJ and the FBI may consider a request from the TPT for a name check

or background investigation without the consent of the Appointee if justified by extraordinary circumstances. Such circumstances shall be documented in writing from the TPT to the Deputy Attorney General through the AAG/A and the FBI General Counsel and should explain why the Appointee's consent cannot be obtained or should not be sought.

5. Use and Maintenance of Investigative Reports

- a) The TPT will ensure that access to these reports is restricted to persons directly involved in ensuring the safety and security of Donald J. Trump or making a determination as to an Appointee's suitability or fitness for employment/appointment/recognition or trustworthiness for access to sensitive (e.g., law enforcement matters, personal information about individuals, privileged commercial or financial information, etc.) or classified information. The TPT may also afford access to these reports to the United States Secret Service or the Office of Security and Emergency Preparedness for the Executive Office of the President upon a determination that any such additional recipient has a legitimate need to know the information for the proper performance of official responsibilities and that any such disclosure is not otherwise precluded by applicable law.
- b) The TPT shall maintain, disseminate, and dispose of name check and background investigation records and reports in accordance with applicable legal requirements, including the Privacy Act. The TPT shall maintain records identifying all persons receiving access to these records and reports, and such TPT records shall be furnished to the FBI upon request.
- c) The TPT will ensure that all reports received, and any copies made of those reports will be retained until a successor agreement or January 20, 2025, whichever comes first, at which time the reports shall be provided to an appropriate Executive Branch official to be retained in accordance with applicable legal requirements.
- d) The TPT may not allow the Appointee or any person outside of the appointment, employment, security clearance, confirmation, Presidential recognition, or Presidential protection processes direct access to the reports, copies of the reports, or any information derived from the reports. If deemed necessary to discuss the contents of reports with the Appointee, the TPT will ensure that the confidentiality of the sources contained therein will be protected in accordance with applicable legal requirements. Any request by the Appointee for access to the reports will be referred to the FBI for processing in accordance with both the Privacy Act and the Freedom of Information Act.
- e) Information obtained during a name check or background investigation will be retained by the FBI in accordance with FBI Privacy Act systems of records notices and records retention schedules. Certain information relating to

pending federal civil or criminal matters may be disseminated on a need-to-know basis to other officials of the DOJ or other appropriate agencies to which the DOJ refers the matter. No further dissemination shall be made of information obtained during any investigation conducted pursuant to this agreement, except as part of an investigation of a violation of law, or otherwise as permitted or required by federal statute, FBI/DOJ regulation or policy, or Presidential directive or Executive order.

- f) No person employed by or representing the TPT shall be given access to any classified information or material until appropriate clearance for access to such information and materials has been granted by the DOJ or other appropriate agency. The TPT will provide the appropriate authority with a list of persons cleared for access to classified information, and the TPT will advise the appropriate authority when an individual granted a clearance terminates employment with, or representation of, the TPT or otherwise no longer requires access to sensitive or classified material.

6. Effect of this Agreement

- a) This MOU takes effect after the election with respect to a candidate who is determined to be an apparent successful candidate in accordance with the Presidential Transition Act. The MOU shall remain in effect until noon on January 20, 2025, or as otherwise agreed to by the parties. If there is a period of multiple possible apparent successful candidates, each candidate will be provided the services provided in this MOU until such time as a single candidate is determined to be the sole apparent successful candidate pursuant to the Presidential Transition Act. At that time, this MOU shall continue in effect for the sole apparent successful candidate but terminate for all other candidates.
- b) This MOU is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law or otherwise by any third party against any of the parties, their parent entities, the United States, or the officers, employees, agents, or other associated personnel thereof.
- c) This MOU is not an obligation or commitment of funds, nor a basis for transfer of funds, but rather is a basic statement of the understanding between the parties of the matters described herein. Expenditures by each party will be subject to its budgetary processes and to the availability of funds and resources pursuant to applicable laws, regulations, and policies. The parties expressly acknowledge that the language in this MOU in no way implies that funds will be made available for such expenditures.
- d) The parties acknowledge that this MOU does not alter applicable law governing any claim for civil liability arising out of any activity conducted

pursuant to this MOU or otherwise relating to this MOU.

- e) This MOU will be effective upon signatures by both parties. This MOU may be amended only by a written document signed by both parties.

Jolene Ann Lauria
Assistant Attorney General
for Administration
Department of Justice

[Transition Director]
Trump Presidential Transition

Dated: _____

Dated: _____

From: Dave Warrington (b) (6)

To: Aimee Whiteman - WPR (b) (6) "Lauria, Jolene A. (JMD)"
(b) (6)

Cc: Gary Lawkowski (b) (6)
(b) (6)

Subject: [EXTERNAL] Draft WH and DOJ MOUs

Date: Tue, 19 Nov 2024 10:03:07 -0500

Importance: Normal

Attachments: 20241118_Post_Election_MOU-
DOJ_and_Trump_Presidential_Transition_Team(DRAFT).docx;
11182024_WH_MOU(DRAFT).docx

Aimee, Jolene, and Ed:

Following up on calls between Susie Wiles and Jeff Zients and Taylor and Ed, attached, for discussion purposes, please find draft White House and DOJ MOUs.

Once you have had a chance to review let us know so we can set up a call to discuss.

Please give me a call if you have any questions.

Best regards,

Dave

David A. Warrington | 47 Transition
GENERAL COUNSEL

Direct: (b) (6)
Mobile: (b) (6)

MEMORANDUM OF UNDERSTANDING

Between the
DEPARTMENT OF JUSTICE

and the
TRUMP PRESIDENTIAL TRANSITION

Regarding Name Checks and Background Investigations
conducted by the Federal Bureau of Investigation and
Adjudications by the Department of Justice

ELECTION 2024

1. Background

This Memorandum of Understanding (MOU) covers the procedures for Donald J. Trump, or an authorized designee of the Trump Presidential Transition (collectively "TPT"), to submit requests for name checks and background investigations for candidates for high-level national security positions through the level of undersecretary of cabinet departments in a new presidential administration, Agency Review Team members, and other individuals described below, to the Federal Bureau of Investigation (FBI), as well as the responsibilities of the FBI and the Department of Justice (DOJ) in connection with the requested investigations so that key Administration positions can be assumed without undue delay.¹ This MOU is made consistent with the purposes of Section 2 of the Presidential Transition Act of 1963, as amended.

2. Purpose

- a) The FBI will conduct file reviews ("name checks") and background investigations at the request of the TPT for applicants, employees, or any other persons expected to be engaged by contract or otherwise to perform services for the TPT or new administration (hereafter the subject of the requested name check, or background investigation shall be referred to as the "Appointee").
- b) Name checks and background investigations shall be conducted only to ascertain facts and information relevant to the Appointee's suitability for Federal government employment or fitness to serve as a contractor, employee, or volunteer in accordance with Executive Order 13467, as amended; and to determine the Appointee's trustworthiness for clearance to access information

¹ A name check consists of searching names that have been indexed as part of FBI criminal, national security, and background investigations to include other National Agency checks as appropriate. A background investigation may be a single scope background investigation, a 5-year reinvestigation, an expanded name check, a limited update, or a limited inquiry (such as follow-up inquiries conducted to resolve issues/questions).

classified under the provisions of Executive Order 13467, as amended, Executive Order 13526 (or any successor Executive Orders) and its implementing directives. The result of these name checks and background investigations will permit the Appointee to be adjudicated for suitability, fitness, or the appropriate clearance (including interim clearances when appropriate), including access to Sensitive Compartmented Information, in accordance with the standards set forth in Security Executive Agent Directive (SEAD) 4 and by any modifying policy memorandum or successor directive issued by the Office of the Director of National Intelligence.

3. Procedures for Submitting Requests

- a) The TPT shall make requests for FBI background investigations and name checks of Appointees in writing. Such requests shall be made by an official who has been designated in writing to make such requests.
- b) The TPT will provide the FBI via official correspondence with the title(s), name(s), and signature(s) of the person(s) designated to make such requests and will apprise the FBI by official correspondence of any changes in approval authority.
- c) All background investigation and name check requests must be submitted on the FBI's approved forms and must contain the verified signature of the designated official.
- d) The consent signed by the Appointee must be dated not earlier than 30 days from the date it is submitted to the FBI, except that an updated consent is not required for follow-up inquiries that are reasonably viewed as within the ambit of a previously-provided consent (e.g., when the TPT asks the FBI to develop further matters raised in support of a background investigation to which the Appointee consented). Requests for supplemental inquiries made within 6 months of the date of the Appointee's signed consent, within 30 days of the FBI's final report, or while an Appointee's confirmation is pending will be presumed to be within the ambit of the original consent.
- e) The reason for each name check or background investigation shall be indicated on the form and shall include the position for which the Appointee is being considered. No material changes will be made to the form's content or format without the written concurrence of the FBI.
- f) Each request for a name check or background investigation shall also include: (1) a completed Standard Form 86 (SF-86) (Questionnaire for National Security Positions); (2) a set of the Appointee's fingerprints on a standardized fingerprint card, or electronically submitted; and (3) a completed request form signed by the Appointee acknowledging his or her consent to be investigated, and acknowledging that information gathered shall be retained consistent with

applicable FBI and Department of Justice (DOJ) systems of records notices and records retention schedules.

- g) If a request form is missing any of the information included in (e) or (f), above, the FBI will not be able to complete it, with the limited exception discussed below in 4(e).
- h) While a background investigation is pending, if the TPT determines that the Appointee is not to be employed, serve as a contractor, or no longer needs a security clearance, the TPT will promptly notify the FBI so the background investigation or name check may be discontinued.

4. Reporting Results of Investigation

- a) Except as provided below, if during the course of the name check or background investigation, the FBI discovers adverse information regarding the Appointee, the FBI, through the Assistant Attorney General for Administration (AAG/A), who is the Department's lead transition official, or the AAG/A's designee, will promptly inform the TPT.
- b) A name check or background investigation report is a snapshot in time that reflects the applicable information available to FBI upon completion of its name check or background investigation. The TPT should submit a new request if updated information is desired. However, prior to an Appointee's assuming the position or being adjudicated for the clearance for which the investigation was conducted, if the FBI becomes aware of additional adverse information about the Appointee, the FBI, through the AAG/A (or their designee), will so apprise the TPT.
- c) The FBI, when appropriate, will furnish reports and/or supporting materials, which contain the results of its name check and background investigations to the TPT as permitted by law and policy, and will retain records of the persons to whom such reports are furnished.
- d) DOJ will receive reports containing the results of the FBI's name checks and background investigations for high-level national security positions through the level of undersecretary of cabinet departments, Agency Review Team members, high-level DOJ appointees, and high-level White House Staff, as requested. Until noon on the date of inauguration, the DOJ, or other appropriate agency to which DOJ refers the matter, will make a determination whether to grant those Appointees appropriate national security clearances. For other name checks and background investigations requested by the TPT, the FBI will provide the results to the individual(s) designated by the TPT to receive such reports.
- e) The DOJ and the FBI may consider a request from the TPT for a name check

or background investigation without the consent of the Appointee if justified by extraordinary circumstances. Such circumstances shall be documented in writing from the TPT to the Deputy Attorney General through the AAG/A and the FBI General Counsel and should explain why the Appointee's consent cannot be obtained or should not be sought.

5. Use and Maintenance of Investigative Reports

- a) The TPT will ensure that access to these reports is restricted to persons directly involved in ensuring the safety and security of Donald J. Trump or making a determination as to an Appointee's suitability or fitness for employment/appointment/recognition or trustworthiness for access to sensitive (e.g., law enforcement matters, personal information about individuals, privileged commercial or financial information, etc.) or classified information. The TPT may also afford access to these reports to the United States Secret Service or the Office of Security and Emergency Preparedness for the Executive Office of the President upon a determination that any such additional recipient has a legitimate need to know the information for the proper performance of official responsibilities and that any such disclosure is not otherwise precluded by applicable law.
- b) The TPT shall maintain, disseminate, and dispose of name check and background investigation records and reports in accordance with applicable legal requirements, including the Privacy Act. The TPT shall maintain records identifying all persons receiving access to these records and reports, and such TPT records shall be furnished to the FBI upon request.
- c) The TPT will ensure that all reports received, and any copies made of those reports will be retained until a successor agreement or January 20, 2025, whichever comes first, at which time the reports shall be provided to an appropriate Executive Branch official to be retained in accordance with applicable legal requirements.
- d) The TPT may not allow the Appointee or any person outside of the appointment, employment, security clearance, confirmation, Presidential recognition, or Presidential protection processes direct access to the reports, copies of the reports, or any information derived from the reports. If deemed necessary to discuss the contents of reports with the Appointee, the TPT will ensure that the confidentiality of the sources contained therein will be protected in accordance with applicable legal requirements. Any request by the Appointee for access to the reports will be referred to the FBI for processing in accordance with both the Privacy Act and the Freedom of Information Act.
- e) Information obtained during a name check or background investigation will be retained by the FBI in accordance with FBI Privacy Act systems of records notices and records retention schedules. Certain information relating to

pending federal civil or criminal matters may be disseminated on a need-to-know basis to other officials of the DOJ or other appropriate agencies to which the DOJ refers the matter. No further dissemination shall be made of information obtained during any investigation conducted pursuant to this agreement, except as part of an investigation of a violation of law, or otherwise as permitted or required by federal statute, FBI/DOJ regulation or policy, or Presidential directive or Executive order.

- f) No person employed by or representing the TPT shall be given access to any classified information or material until appropriate clearance for access to such information and materials has been granted by the DOJ or other appropriate agency. The TPT will provide the appropriate authority with a list of persons cleared for access to classified information, and the TPT will advise the appropriate authority when an individual granted a clearance terminates employment with, or representation of, the TPT or otherwise no longer requires access to sensitive or classified material.

6. Effect of this Agreement

- a) This MOU takes effect after the election with respect to a candidate who is determined to be an apparent successful candidate in accordance with the Presidential Transition Act. The MOU shall remain in effect until noon on January 20, 2025, or as otherwise agreed to by the parties. If there is a period of multiple possible apparent successful candidates, each candidate will be provided the services provided in this MOU until such time as a single candidate is determined to be the sole apparent successful candidate pursuant to the Presidential Transition Act. At that time, this MOU shall continue in effect for the sole apparent successful candidate but terminate for all other candidates.
- b) This MOU is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law or otherwise by any third party against any of the parties, their parent entities, the United States, or the officers, employees, agents, or other associated personnel thereof.
- c) This MOU is not an obligation or commitment of funds, nor a basis for transfer of funds, but rather is a basic statement of the understanding between the parties of the matters described herein. Expenditures by each party will be subject to its budgetary processes and to the availability of funds and resources pursuant to applicable laws, regulations, and policies. The parties expressly acknowledge that the language in this MOU in no way implies that funds will be made available for such expenditures.
- d) The parties acknowledge that any activity conducted pursuant to this MOU shall not be a service under Section 3 of the Presidential Transition Act and

expenditures for such activities will not be made with funds provided under Section 7(a)(1) of the Presidential Transition Act.

d)e) The parties acknowledge that this MOU does not alter applicable law governing any claim for civil liability arising out of any activity conducted pursuant to this MOU or otherwise relating to this MOU.

e)f) This MOU will be effective upon signatures by both parties. This MOU may be amended only by a written document signed by both parties.

Jolene Ann Lauria
Assistant Attorney General
for Administration
Department of Justice

[Transition Director]
Trump Presidential Transition

Dated: _____

Dated: _____

**2024 Memorandum of Understanding Regarding Transition Procedures,
Identification of Transition Contacts, and Access to Non-public Government and
Transition Information**

1. The Chief of Staff to President Joseph R. Biden, Jr. and the Chair of the White House Transition Coordinating Council (collectively, the “Administration”) and the Chief of Staff to President-elect Donald J. Trump, on behalf of Trump Vance Transition 2025, Inc. (collectively, the “Trump-Vance Transition Team”) agree, that President-elect Donald J. Trump, his Chief of Staff (or her designee), and certain associates of the Trump-Vance Team must become knowledgeable about current government policies and operations so that they can begin making informed decisions immediately upon President-elect Donald J. Trump taking office.
2. The Administration and the Trump-Vance Transition Team enter into this Memorandum of Understanding in order to establish an orderly process for identifying individuals charged with transition responsibilities, to ensure that the Government’s and the Trump-Vance Transition Team’s standards of conduct are observed, to protect the confidentiality of nonpublic government information made available to the Trump-Vance Transition Team during the transition period, to preserve the constitutional, statutory, and common law privileges that attach to such information in the possession of the Executive Branch, and to protect the confidentiality of Trump-Vance Transition Team information made available to the Government.
3. The Trump-Vance Transition Team will furnish in writing to the Administration the name of each individual authorized by the Trump-Vance Transition Team to work with the Executive Office of the President (“EOP”) and particular Departments and Agencies, including the designation of a Trump-Vance Transition Team lead or leads for the EOP and each Department or Agency. The Trump-Vance Transition Team will also indicate in writing that each individual on the list has agreed to abide by the Trump-Vance Transition Team’s Code of Ethical Conduct, and has thereby represented that he or she has no conflict of interest that precludes the individual from working on the matters the individual has been assigned to work on within the EOP or the relevant Department or Agency. These lists will be updated as new members are added to the teams. The Administration will promptly forward these names to the appropriate Departments, Agencies, and EOP offices. The Administration will also provide in writing to the Trump-Vance Transition Team the names of individuals in the Departments, Agencies, and specified offices in the EOP who will serve as contacts responsible for coordinating transition matters on behalf of those Departments, Agencies, or specified EOP offices. The Chief of Staff to President Joseph R. Biden, Jr. (or his designee) is the contact person responsible for coordinating transition matters on behalf of those offices of the EOP for which contact persons have not otherwise been designated.
4. The Administration will conduct its transition activities with the Trump-Vance Transition Team through the contacts authorized by the Chief of Staff to President Joseph R. Biden, Jr. (or his designee) and the Chief of Staff to President-elect Donald J. Trump (or her

designee). The authorized contacts for the Trump-Vance Transition Team will initiate transition activities with a particular Department, Agency, or specified office of the EOP through the individual(s) at that Department, Agency, or EOP office designated by the Chief of Staff to President Joseph R. Biden, Jr. (or his designee) to coordinate transition activities for that Department, Agency, or EOP office. The authorized contacts for the Trump-Vance Transition Team will initiate transition activities involving any other office of the EOP through the Chief of Staff of President Joseph R. Biden, Jr. (or his designee).

5. Each Department and Agency will use best efforts to locate and set aside available space in their offices for the duration of the transition for use by authorized members of the Trump-Vance Transition Team to facilitate review of information provided by the Department or Agency and communication with authorized contacts at such Department or Agency. Each Department or Agency will provide, to the extent practicable, appropriate support to and equipment for use by the Trump-Vance Transition Team in such office space. The exact details of space and equipment will be worked out between the Trump-Vance Transition Team and the individual(s) at any Department or Agency designated by the Chief of Staff to Joseph R. Biden, Jr. (or his designee).
6. In order to facilitate a smooth transition, it likely will be necessary in some circumstances to provide specified personnel of the Trump-Vance Transition Team with access to non-public information that may be protected by constitutional, statutory, or common law privileges, and material whose distribution is restricted by law. The Chief of Staff to President Joseph R. Biden, Jr. has advised the Chief of Staff to President-Elect Donald J. Trump that Administration personnel will take steps to protect non-public information that are required by law or otherwise necessary to preserve applicable privileges, such as actions based on the Executive Branch standards of conduct, the Privacy Act, or the attorney-client privilege. The Trump-Vance Transition Team recognizes that there is some information that a Department or Agency may not be able to provide in order to comply with statutory requirements or otherwise preserve applicable privileges.
7. In order to facilitate a smooth transition and provide a mechanism for expeditiously addressing any concerns, including ethical, privacy, and privilege concerns, regarding access to non-public information as described in paragraph six (6), the Chief of Staff to President Joseph R. Biden, Jr. (or his designee) and the Chief of Staff to President-elect Donald J. Trump on behalf of the Trump-Vance Transition Team will each designate in writing an individual or individuals authorized to confer in order to resolve such concerns informally.
8. The Chief of Staff to President Joseph R. Biden, Jr. (or his designee) further advises that, before providing any classified information to a member of the Trump-Vance Transition Team, it must be established:
 - That the member has the security clearances necessary to have access to that information, and the requisite need to know, and
 - That the member has signed the requisite non-disclosure agreement(s).
9. The Chief of Staff to President Joseph R. Biden, Jr. (or his designee) advises that, before providing non-public information (including classified information) as described

in paragraph six (6) to a member of the Trump-Vance Transition Team authorized to receive it under the guidelines established in this Memorandum, Departments and Agencies will expeditiously:

- Brief the Trump-Vance Transition Team member on the importance of maintaining the constitutional, statutory, and/or common law safeguards afforded non-public information.
 - Clearly label non-public records provided to Trump-Vance Transition Team personnel with a warning against subsequent disclosures to unauthorized individuals, including unauthorized members of the Trump-Vance Transition Team.
 - Specifically advise Trump-Vance Transition Team members that non-public information provided to them cannot be shared with other Trump-Vance Transition Team personnel unless those other personnel satisfy the requirements for access to that information set forth in this Memorandum.
 - Require the Trump-Vance Transition Team member to sign a statement representing that, to the member's knowledge, he or she has no financial interest or imputed financial interest that would be directly and predictably affected by a particular matter to which the information is pertinent. The Department or Agency may require such additional information from the Trump-Vance Transition Team member as the Department or Agency deems necessary, in light of the proposed disclosure.
 - Where advisable, prohibit the Trump-Vance Transition Team member from removing records containing non-public information from the offices of the Department or Agency.
 - Make a written record of any disclosure of non-public information made to a member of the Trump-Vance Transition Team.
10. Upon request from the EOP, a Department, or an Agency, the Trump-Vance Transition Team will provide a written statement indicating a particular Trump-Vance Transition Team member's need for access to the non-public information. The statement of need will be provided by the Chief of Staff to President-elect Donald J. Trump on behalf of the Trump-Vance Transition Team (or her designee) to the Chief of Staff to President Joseph R. Biden (or his designee).
 11. A government employee may not allow the improper use of non-public information to further his own private interest or that of another by knowing unauthorized disclosure. 5 C.F.R § 2640.
 12. It likely will be necessary for members of the Trump-Vance Transition Team to share with the Administration information that they wish to be kept confidential. Accordingly, to the extent permitted by law, the Administration agrees to protect the confidentiality of information provided to it on a confidential basis by the Trump-Vance Transition Team.

13. The Trump-Vance Transition Team will implement and enforce an Ethics Plan to guide the conduct of the transition beginning on the date on which any member joins the Trump-Vance Transition Team. The Trump-Vance Transition Team represents that the Ethics Plan includes, at a minimum, the provisions described in the Presidential Transition Enhancement Act of 2019 (the “Transition Enhancement Act”).
14. Any disagreements between the Administration and the Trump-Vance Transition Team concerning the subject matter of this memorandum that are not resolved informally pursuant to paragraph seven (7) or otherwise will be referred by the Administration to the Chief of Staff to President Joseph R. Biden, Jr. (or his designee) and by the Trump-Vance Transition Team to the Chief of Staff to President-elect Donald J. Trump (or her designee).
15. To the extent permitted by law, the Administration with respect to its staff members and the Trump-Vance Transition Team with respect to its transition team members, state that they intend to take appropriate steps to discipline any person who fails to comply with the terms of this agreement.
16. Nothing described herein shall constitute the provision or receipt of services under section three (3) of the Presidential Transition Act, nor shall the implementation of this Memorandum of Understanding satisfy the conditions triggering the requirements of section six (6) of the Presidential Transition Act. The Chief of Staff to President Joseph R. Biden, Jr. (or his designee) agrees to provide the Chief of Staff to President-elect Donald J. Trump (or his designee), on behalf of the Trump-Vance Transition Team written, notice prior to providing any services or allocating any funds that are conditioned upon acceptance of the requirements set forth in section six (6) of the Presidential Transition Act. No such services or funding shall be provided until and unless the Chief of Staff to President-elect Donald J. Trump (or her designee) provides specific written acceptance of such services or funds to the Chief of Staff to President Joseph R. Biden, Jr. (or his designee).

Signed by:

Jeff Zients

Chief of Staff to the President

Date:

Signed by:

Susie Wiles: _____

Chief of Staff to the President-elect

Date:

From: "Ross, Erica (OLC)" (b) (6)
To: "Posner, Morton J. (JMD)" (b) (6), "Lauria, Jolene A. (JMD)" (b) (6)
Cc: "Fonzone, Christopher (OLC)" (b) (6), "Heim, Laura (OLC)" (b) (6), "Peltier, Mariette (OLC)" (b) (6), "Gilens, Naomi (OLC)" (b) (6), "Anderson, Trisha (OLC)" (b) (6)
Subject: RE: DOJ MOU
Date: Tue, 19 Nov 2024 17:26:17 -0500
Importance: Normal
Attachments: 20241118_Post_Election_MOU-DOJ_and_Trump_Presidential_Transition_Team(DRAFT)_ (003)_+_OLC_11.19.2024.docx

Thanks, Morty, and my apologies—I've recalled that version of the message and am re-attaching with the correct list of recipients (as I understand it has disappeared from inboxes).

From: Posner, Morton J. (JMD) (b) (6)
Sent: Tuesday, November 19, 2024 5:24 PM
To: Ross, Erica (OLC) (b) (6); Lauria, Jolene A. (JMD) (b) (6)
Cc: Fonzone, Christopher (OLC) (b) (6); Heim, Laura (OLC) (b) (6); Peltier, Mariette (OLC) (b) (6); Gilens, Naomi (OLC) (b) (6)
Subject: RE: DOJ MOU

Thanks Erica and team! (Deleting the USMS address)

From: Ross, Erica (OLC) (b) (6)
Sent: Tuesday, November 19, 2024 5:20 PM
To: Lauria, Jolene A. (JMD) (b) (6); Posner, Morton J. (JMD) (b) (6)
Cc: Fonzone, Christopher (OLC) (b) (6); (b) (6), (b) (7)(C) (USMS) (b) (6), (b) (7)(C); Heim, Laura (OLC) (b) (6); Peltier, Mariette (OLC) (b) (6); Gilens, Naomi (OLC) (b) (6)
Subject: DOJ MOU

Jolene and Morty,

Please find attached a few small comments and suggestions on the DOJ MOU.

Thanks very much,
Erica

Erica L. Ross
Deputy Assistant Attorney General
Office of Legal Counsel
U.S. Department of Justice
Office: (b) (6)
Cell: (b) (6)

MEMORANDUM OF UNDERSTANDING

Between the
DEPARTMENT OF JUSTICE
and the
TRUMP PRESIDENTIAL TRANSITION

Regarding Name Checks and Background Investigations
conducted by the Federal Bureau of Investigation and
Adjudications by the Department of Justice

ELECTION 2024

1. Background

This Memorandum of Understanding (MOU) covers the procedures for Donald J. Trump, or an authorized designee of the Trump Presidential Transition (collectively "TPT"), to submit requests for name checks and background investigations for candidates for high-level national security positions through the level of undersecretary of cabinet departments in a new presidential administration, Agency Review Team members, and other individuals described below, to the Federal Bureau of Investigation (FBI), as well as the responsibilities of the FBI and the Department of Justice (DOJ) in connection with the requested investigations so that key Administration positions can be assumed without undue delay.¹ This MOU is made consistent with the purposes of Section 2 of the Presidential Transition Act of 1963, as amended.

2. Purpose

- a) The FBI will conduct file reviews ("name checks") and background investigations at the request of the TPT for applicants, employees, or any other persons expected to be engaged by contract or otherwise to perform services for the TPT or new administration (hereafter the subject of the requested name check, or background investigation shall be referred to as the "Appointee").
- b) Name checks and background investigations shall be conducted only to ascertain facts and information relevant to the Appointee's suitability for Federal government employment or fitness to serve as a contractor, employee, or volunteer in accordance with Executive Order 13467, as amended; and to determine the Appointee's trustworthiness for clearance to access information

¹ A name check consists of searching names that have been indexed as part of FBI criminal, national security, and background investigations to include other National Agency checks as appropriate. A background investigation may be a single scope background investigation, a 5-year reinvestigation, an expanded name check, a limited update, or a limited inquiry (such as follow-up inquiries conducted to resolve issues/questions).

classified under the provisions of Executive Order 13467, as amended, Executive Order 13526 (or any successor Executive Orders) and its implementing directives. The result of these name checks and background investigations will permit the Appointee to be adjudicated for suitability, fitness, or the appropriate clearance (including interim clearances when appropriate), including access to Sensitive Compartmented Information, in accordance with the standards set forth in Security Executive Agent Directive (SEAD) 4 and by any modifying policy memorandum or successor directive issued by the Office of the Director of National Intelligence.

3. Procedures for Submitting Requests

- a) The TPT shall make requests for FBI background investigations and name checks of Appointees in writing. Such requests shall be made by an official who has been designated in writing to make such requests.
- b) The TPT will provide the FBI via official correspondence with the title(s), name(s), and signature(s) of the person(s) designated to make such requests and will apprise the FBI by official correspondence of any changes in approval authority.
- c) All background investigation and name check requests must be submitted on the FBI's approved forms and must contain the verified signature of the designated official.
- d) The consent signed by the Appointee must be dated not earlier than 30 days from the date it is submitted to the FBI, except that an updated consent is not required for follow-up inquiries that are reasonably viewed as within the ambit of a previously-provided consent (e.g., when the TPT asks the FBI to develop further matters raised in support of a background investigation to which the Appointee consented). Requests for supplemental inquiries made within 6 months of the date of the Appointee's signed consent, within 30 days of the FBI's final report, or while an Appointee's confirmation is pending will be presumed to be within the ambit of the original consent.
- e) The reason for each name check or background investigation shall be indicated on the form and shall include the position for which the Appointee is being considered. No material changes will be made to the form's content or format without the written concurrence of the FBI.
- f) Each request for a name check or background investigation shall also include: (1) a completed Standard Form 86 (SF-86) (Questionnaire for National Security Positions); (2) a set of the Appointee's fingerprints on a standardized fingerprint card, or electronically submitted; and (3) a completed request form signed by the Appointee acknowledging his or her consent to be investigated, and acknowledging that information gathered shall be retained consistent with

applicable FBI and Department of Justice (DOJ) systems of records notices and records retention schedules.

- g) If a request form is missing any of the information included in (e) or (f), above, the FBI will not be able to complete it, with the limited exception discussed below in 4(e).
- h) While a background investigation is pending, if the TPT determines that the Appointee is not to be employed, serve as a contractor, or no longer needs a security clearance, the TPT will promptly notify the FBI so the background investigation or name check may be discontinued.

4. Reporting Results of Investigation

- a) Except as provided below, if during the course of the name check or background investigation, the FBI discovers adverse information regarding the Appointee, the FBI, through the Assistant Attorney General for Administration (AAG/A), who is the Department's lead transition official, or the AAG/A's designee, will promptly inform the TPT.
- b) A name check or background investigation report is a snapshot in time that reflects the applicable information available to FBI upon completion of its name check or background investigation. The TPT should submit a new request if updated information is desired. However, prior to an Appointee's assuming the position or being adjudicated for the clearance for which the investigation was conducted, if the FBI becomes aware of additional adverse information about the Appointee, the FBI, through the AAG/A (or their designee), will so apprise the TPT.
- c) The FBI, when appropriate, will furnish reports and/or supporting materials, which contain the results of its name check and background investigations to the TPT as permitted by law and policy, and will retain records of the persons to whom such reports are furnished.
- d) DOJ will receive reports containing the results of the FBI's name checks and background investigations for high-level national security positions through the level of undersecretary of cabinet departments, Agency Review Team members, high-level DOJ appointees, and high-level White House Staff, as requested. Until noon on the date of inauguration, the DOJ, or other appropriate agency to which DOJ refers the matter, will make a determination whether to grant those Appointees appropriate national security clearances. For other name checks and background investigations requested by the TPT, the FBI will provide the results to the individual(s) designated by the TPT to receive such reports.
- e) The DOJ and the FBI may consider a request from the TPT for a name check

or background investigation without the consent of the Appointee if justified by extraordinary circumstances. Such circumstances shall be documented in writing from the TPT to the Deputy Attorney General through the AAG/A and the FBI General Counsel and should explain why the Appointee's consent cannot be obtained or should not be sought.

5. Use and Maintenance of Investigative Reports

- a) The TPT will ensure that access to these reports is restricted to persons directly involved in ensuring the safety and security of Donald J. Trump or making a determination as to an Appointee's suitability or fitness for employment/appointment/recognition or trustworthiness for access to sensitive (e.g., law enforcement matters, personal information about individuals, privileged commercial or financial information, etc.) or classified information. The TPT may also afford access to these reports to the United States Secret Service or the Office of Security and Emergency Preparedness for the Executive Office of the President upon a determination that any such additional recipient has a legitimate need to know the information for the proper performance of official responsibilities and that any such disclosure is not otherwise precluded by applicable law.
- b) The TPT shall maintain, disseminate, and dispose of name check and background investigation records and reports in accordance with applicable legal requirements, including the Privacy Act. The TPT shall maintain records identifying all persons receiving access to these records and reports, and such TPT records shall be furnished to the FBI upon request.
- c) The TPT will ensure that all reports received, and any copies made of those reports will be retained until a successor agreement or January 20, 2025, whichever comes first, at which time the reports shall be provided to an appropriate Executive Branch official to be retained in accordance with applicable legal requirements.
- d) The TPT may not allow the Appointee or any person outside of the appointment, employment, security clearance, confirmation, Presidential recognition, or Presidential protection processes direct access to the reports, copies of the reports, or any information derived from the reports. If deemed necessary to discuss the contents of reports with the Appointee, the TPT will ensure that the confidentiality of the sources contained therein will be protected in accordance with applicable legal requirements. Any request by the Appointee for access to the reports will be referred to the FBI for processing in accordance with both the Privacy Act and the Freedom of Information Act.
- e) Information obtained during a name check or background investigation will be retained by the FBI in accordance with FBI Privacy Act systems of records notices and records retention schedules. Certain information relating to

pending federal civil or criminal matters may be disseminated on a need-to-know basis to other officials of the DOJ or other appropriate agencies to which the DOJ refers the matter. No further dissemination shall be made of information obtained during any investigation conducted pursuant to this agreement, except as part of an investigation of a violation of law, or otherwise as permitted or required by federal statute, FBI/DOJ regulation or policy, or Presidential directive or Executive order.

- f) No person employed by or representing the TPT shall be given access to any classified information or material until appropriate clearance for access to such information and materials has been granted by the DOJ or other appropriate agency. The TPT will provide the appropriate authority with a list of persons cleared for access to classified information, and the TPT will advise the appropriate authority when an individual granted a clearance terminates employment with, or representation of, the TPT or otherwise no longer requires access to sensitive or classified material.

6. Effect of this Agreement

(b) (5)

- b) This MOU is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law or otherwise by any third party against any of the parties, their parent entities, the United States, or the officers, employees, agents, or other associated personnel thereof.

- c) This MOU is not an obligation or commitment of funds, nor a basis for transfer of funds, but rather is a basic statement of the understanding between the parties of the matters described herein. Expenditures by each party will be subject to its budgetary processes and to the availability of funds and resources pursuant to applicable laws, regulations, and policies. The parties expressly acknowledge that the language in this MOU in no way implies that funds will be made available for such expenditures.

(b) (5)

(b) (5)

~~e)~~ The parties acknowledge that this MOU does not alter applicable law governing any claim for civil liability arising out of any activity conducted pursuant to this MOU or otherwise relating to this MOU.

~~e)~~ This MOU will be effective upon signatures by both parties. This MOU may be amended only by a written document signed by both parties.

Jolene Ann Lauria
Assistant Attorney General
for Administration
Department of Justice

[Transition Director]
Trump Presidential Transition

Dated: _____

Dated: _____

From: "Posner, Morton J. (JMD)" (b) (6)
To: "Lauria, Jolene A. (JMD)" (b) (6)
Cc: "Collier, Nikki (JMD)" (b) (6), "Thompson, John E. (JMD)" (b) (6)

Subject: RE: DOJ MOU

Date: Tue, 19 Nov 2024 17:49:30 -0500

Importance: Normal

Attachments: 20241118_Post_Election_MOU-DOJ_and_Trump_Presidential_Transition_Team(DRAFT)-DOJ_11-19-24.docx

Jolene,

(b) (5) for whenever you can go forward with it.

Morty

From: Ross, Erica (OLC) (b) (6)
Sent: Tuesday, November 19, 2024 5:26 PM
To: Posner, Morton J. (JMD) (b) (6); Lauria, Jolene A. (JMD) (b) (6)
Cc: Fonzone, Christopher (OLC) (b) (6); Heim, Laura (OLC) (b) (6)
Peltier, Mariette (OLC) (b) (6); Gilens, Naomi (OLC) (b) (6); Anderson, Trisha (OLC) (b) (6)
Subject: RE: DOJ MOU

Thanks, Morty, and my apologies—I've recalled that version of the message and am re-attaching with the correct list of recipients (as I understand it has disappeared from inboxes).

From: Posner, Morton J. (JMD) (b) (6)
Sent: Tuesday, November 19, 2024 5:24 PM
To: Ross, Erica (OLC) (b) (6); Lauria, Jolene A. (JMD) (b) (6)
Cc: Fonzone, Christopher (OLC) (b) (6); Heim, Laura (OLC) (b) (6)
Peltier, Mariette (OLC) (b) (6); Gilens, Naomi (OLC) (b) (6)
Subject: RE: DOJ MOU

Thanks Erica and team! (Deleting the USMS address)

From: Ross, Erica (OLC) (b) (6)
Sent: Tuesday, November 19, 2024 5:20 PM
To: Lauria, Jolene A. (JMD) (b) (6); Posner, Morton J. (JMD) (b) (6)
Cc: Fonzone, Christopher (OLC) (b) (6); (b) (6), (b) (7)(C) (USMS)
(b) (6), (b) (7)(C); Heim, Laura (OLC) (b) (6); Peltier, Mariette (OLC) (b) (6)
Gilens, Naomi (OLC) (b) (6)
Subject: DOJ MOU

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Thanks very much,
Erica

Erica L. Ross
Deputy Assistant Attorney General
Office of Legal Counsel
U.S. Department of Justice
Office: (b) (6)
Cell: (b) (6)

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and the

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conducted by the Federal Bureau of Investigation and
Adjudications by the Department of Justice

ELECTION 2024

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2. Purpose

- a) The FBI will conduct file reviews ("name checks") and background investigations at the request of the TPT for applicants, employees, or any other persons expected to be engaged by contract or otherwise to perform services for the TPT or new administration (hereafter the subject of the requested name check, or background investigation shall be referred to as the "Appointee").
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- c) All background investigation and name check requests must be submitted on the FBI's approved forms and must contain the verified signature of the designated official.
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(1) a completed Standard Form 86 (SF-86) (Questionnaire for National Security Positions); (2) a set of the Appointee's fingerprints on a standardized fingerprint card, or electronically submitted; and (3) a completed request form signed by the Appointee acknowledging his or her consent to be investigated, and acknowledging that information gathered shall be retained consistent with

applicable FBI and Department of Justice (DOJ) systems of records notices and records retention schedules.

- g) If a request form is missing any of the information included in (e) or (f), above, the FBI will not be able to complete it, with the limited exception discussed below in 4(e).
- h) While a background investigation is pending, if the TPT determines that the Appointee is not to be employed, serve as a contractor, or no longer needs a security clearance, the TPT will promptly notify the FBI so the background investigation or name check may be discontinued.

4. Reporting Results of Investigation

- a) Except as provided below, if during the course of the name check or background investigation, the FBI discovers adverse information regarding the Appointee, the FBI, through the Assistant Attorney General for Administration (AAG/A), who is the Department's lead transition official, or the AAG/A's designee, will promptly inform the TPT.
- b) A name check or background investigation report is a snapshot in time that reflects the applicable information available to FBI upon completion of its name check or background investigation. The TPT should submit a new request if updated information is desired. However, prior to an Appointee's assuming the position or being adjudicated for the clearance for which the investigation was conducted, if the FBI becomes aware of additional adverse information about the Appointee, the FBI, through the AAG/A (or their designee), will so apprise the TPT.
- c) The FBI, when appropriate, will furnish reports and/or supporting materials, which contain the results of its name check and background investigations to the TPT as permitted by law and policy, and will retain records of the persons to whom such reports are furnished.
- d) DOJ will receive reports containing the results of the FBI's name checks and background investigations for high-level national security positions through the level of undersecretary of cabinet departments, Agency Review Team members, high-level DOJ appointees, and high-level White House Staff, as requested. Until noon on the date of inauguration, the DOJ, or other appropriate agency to which DOJ refers the matter, will make a determination whether to grant those Appointees appropriate national security clearances. For other name checks and background investigations requested by the TPT, the FBI will provide the results to the individual(s) designated by the TPT to receive such reports.
- e) The DOJ and the FBI may consider a request from the TPT for a name check

or background investigation without the consent of the Appointee if justified by extraordinary circumstances. Such circumstances shall be documented in writing from the TPT to the Deputy Attorney General through the AAG/A and the FBI General Counsel and should explain why the Appointee's consent cannot be obtained or should not be sought.

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- a) The TPT will ensure that access to these reports is restricted to persons directly involved in ensuring the safety and security of Donald J. Trump or making a determination as to an Appointee's suitability or fitness for employment/appointment/recognition or trustworthiness for access to sensitive (e.g., law enforcement matters, personal information about individuals, privileged commercial or financial information, etc.) or classified information. The TPT may also afford access to these reports to the United States Secret Service or the Office of Security and Emergency Preparedness for the Executive Office of the President upon a determination that any such additional recipient has a legitimate need to know the information for the proper performance of official responsibilities and that any such disclosure is not otherwise precluded by applicable law.
- b) The TPT shall maintain, disseminate, and dispose of name check and background investigation records and reports in accordance with applicable legal requirements, including the Privacy Act. The TPT shall maintain records identifying all persons receiving access to these records and reports, and such TPT records shall be furnished to the FBI upon request.
- c) The TPT will ensure that all reports received, and any copies made of those reports will be retained until a successor agreement or January 20, 2025, whichever comes first, at which time the reports shall be provided to an appropriate Executive Branch official to be retained in accordance with applicable legal requirements.
- d) The TPT may not allow the Appointee or any person outside of the appointment, employment, security clearance, confirmation, Presidential recognition, or Presidential protection processes direct access to the reports, copies of the reports, or any information derived from the reports. If deemed necessary to discuss the contents of reports with the Appointee, the TPT will ensure that the confidentiality of the sources contained therein will be protected in accordance with applicable legal requirements. Any request by the Appointee for access to the reports will be referred to the FBI for processing in accordance with both the Privacy Act and the Freedom of Information Act.
- e) Information obtained during a name check or background investigation will be retained by the FBI in accordance with FBI Privacy Act systems of records notices and records retention schedules. Certain information relating to

pending federal civil or criminal matters may be disseminated on a need-to-know basis to other officials of the DOJ or other appropriate agencies to which the DOJ refers the matter. No further dissemination shall be made of information obtained during any investigation conducted pursuant to this agreement, except as part of an investigation of a violation of law, or otherwise as permitted or required by federal statute, FBI/DOJ regulation or policy, or Presidential directive or Executive order.

- f) No person employed by or representing the TPT shall be given access to any classified information or material until appropriate clearance for access to such information and materials has been granted by the DOJ or other appropriate agency. The TPT will provide the appropriate authority with a list of persons cleared for access to classified information, and the TPT will advise the appropriate authority when an individual granted a clearance terminates employment with, or representation of, the TPT or otherwise no longer requires access to sensitive or classified material.

6. Effect of this Agreement

- a) This ~~MOU takes effect after the election with respect to a candidate who is determined to be an apparent successful candidate in accordance with the Presidential Transition Act. The MOU shall remain in effect until noon on January 20, 2025, or as otherwise agreed to by the parties. If there is a period of multiple possible apparent successful candidates, each candidate will be provided the services provided in this MOU until such time as a single candidate is determined to be the sole apparent successful candidate pursuant to the Presidential Transition Act. At that time, this MOU shall continue in effect for the sole apparent successful candidate but terminate for all other candidates.~~

Commented [MP1]: DOJ: Paragraph updated for current circumstances.

- b) This MOU is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law or otherwise by any third party against any of the parties, their parent entities, the United States, or the officers, employees, agents, or other associated personnel thereof.

- c) This MOU is not an obligation or commitment of funds, nor a basis for transfer of funds, but rather is a basic statement of the understanding between the parties of the matters described herein. Expenditures by each party will be subject to its budgetary processes and to the availability of funds and resources pursuant to applicable laws, regulations, and policies. The parties expressly acknowledge that the language in this MOU in no way implies that funds will be made available for such expenditures.

- e)d) ~~The parties acknowledged that any activity conducted pursuant to this MOU shall is not be a service under Section 3 of the Presidential Transition Act and~~

expenditures for such activities will not be made with funds
provided authorized under Section 7(a)(1) of the Presidential Transition Act.

e) The parties acknowledge that this MOU does not alter applicable law governing any claim for civil liability arising out of any activity conducted pursuant to this MOU or otherwise relating to this MOU.

f) This MOU will be effective upon signatures by both parties. This MOU may be amended only by a written document signed by both parties.

Jolene Ann Lauria
Assistant Attorney General
for Administration
Department of Justice

[Transition Director]
Trump Presidential Transition

Dated: _____

Dated: _____

From: "Lauria, Jolene A. (JMD)" (b) (6) >
To: "Dave Warrington" (b) (6)
Subject: Fwd: Post-election security MOU
Date: Wed, 27 Nov 2024 16:15:03 -0500

Importance: Normal

Attachments: 20241118_Post_Election_MOU-DOJ_and_Trump_Presidential_Transition_Team(DRAFT)-DOJ_11-27-24.docx; 20241118_Post_Election_MOU-DOJ_and_Trump_Presidential_Transition_Team-DOJ_11-27-24_clean.docx

Dave-

As discussed. Looking forward to closing this out and having our security leads talk details on process and name sharing!

Have a great Thanksgiving!
Sent from my iPhone

Begin forwarded message:

From: "Posner, Morton J. (JMD)" (b) (6)
Date: November 27, 2024 at 2:32:45 PM EST
To: "Lauria, Jolene A. (JMD)" (b) (6)
Subject: Post-election security MOU

Jolene,

Attached is the most recent redlined DOJ version of the post-election security MOU, in response to the version you received from David Warrington on 11/19. Also attached is a clean copy of that version.

Morty

Morton J. Posner
General Counsel
Justice Management Division

MEMORANDUM OF UNDERSTANDING

Between the
DEPARTMENT OF JUSTICE
and the
TRUMP PRESIDENTIAL TRANSITION

Regarding Name Checks and Background Investigations
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Adjudications by the Department of Justice

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- a) The FBI will conduct file reviews ("name checks") and background investigations at the request of the TPT for applicants, employees, or any other persons expected to be engaged by contract or otherwise to perform services for the TPT or new administration (hereafter the subject of the requested name check, or background investigation shall be referred to as the "Appointee").
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4. Reporting Results of Investigation

- a) Except as provided below, if during the course of the name check or background investigation, the FBI discovers adverse information regarding the Appointee, the FBI, through the Assistant Attorney General for Administration (AAG/A), who is the Department's lead transition official, or the AAG/A's designee, will promptly inform the TPT.
- b) A name check or background investigation report is a snapshot in time that reflects the applicable information available to FBI upon completion of its name check or background investigation. The TPT should submit a new request if updated information is desired. However, prior to an Appointee's assuming the position or being adjudicated for the clearance for which the investigation was conducted, if the FBI becomes aware of additional adverse information about the Appointee, the FBI, through the AAG/A (or their designee), will so apprise the TPT.
- c) The FBI, when appropriate, will furnish reports and/or supporting materials, which contain the results of its name check and background investigations to the TPT as permitted by law and policy, and will retain records of the persons to whom such reports are furnished.
- d) DOJ will receive reports containing the results of the FBI's name checks and background investigations for high-level national security positions through the level of undersecretary of cabinet departments, Agency Review Team members, high-level DOJ appointees, and high-level White House Staff, as requested. Until noon on the date of inauguration, the DOJ, or other appropriate agency to which DOJ refers the matter, will make a determination whether to grant those Appointees appropriate national security clearances. For other name checks and background investigations requested by the TPT, the FBI will provide the results to the individual(s) designated by the TPT to receive such reports.
- e) The DOJ and the FBI may consider a request from the TPT for a name check

or background investigation without the consent of the Appointee if justified by extraordinary circumstances. Such circumstances shall be documented in writing from the TPT to the Deputy Attorney General through the AAG/A and the FBI General Counsel and should explain why the Appointee's consent cannot be obtained or should not be sought.

5. Use and Maintenance of Investigative Reports

- a) The TPT will ensure that access to these reports is restricted to persons directly involved in ensuring the safety and security of Donald J. Trump or making a determination as to an Appointee's suitability or fitness for employment/appointment/recognition or trustworthiness for access to sensitive (e.g., law enforcement matters, personal information about individuals, privileged commercial or financial information, etc.) or classified information. The TPT may also afford access to these reports to the United States Secret Service or the Office of Security and Emergency Preparedness for the Executive Office of the President upon a determination that any such additional recipient has a legitimate need to know the information for the proper performance of official responsibilities and that any such disclosure is not otherwise precluded by applicable law.
- b) The TPT shall maintain, disseminate, and dispose of name check and background investigation records and reports in accordance with applicable legal requirements, including the Privacy Act. The TPT shall maintain records identifying all persons receiving access to these records and reports, and such TPT records shall be furnished to the FBI upon request.
- c) The TPT will ensure that all reports received, and any copies made of those reports will be retained until a successor agreement or January 20, 2025, whichever comes first, at which time the reports shall be provided to an appropriate Executive Branch official to be retained in accordance with applicable legal requirements.
- d) The TPT may not allow the Appointee or any person outside of the appointment, employment, security clearance, confirmation, Presidential recognition, or Presidential protection processes direct access to the reports, copies of the reports, or any information derived from the reports. If deemed necessary to discuss the contents of reports with the Appointee, the TPT will ensure that the confidentiality of the sources contained therein will be protected in accordance with applicable legal requirements. Any request by the Appointee for access to the reports will be referred to the FBI for processing in accordance with both the Privacy Act and the Freedom of Information Act.
- e) Information obtained during a name check or background investigation will be retained by the FBI in accordance with FBI Privacy Act systems of records notices and records retention schedules. Certain information relating to

pending federal civil or criminal matters may be disseminated on a need-to-know basis to other officials of the DOJ or other appropriate agencies to which the DOJ refers the matter. No further dissemination shall be made of information obtained during any investigation conducted pursuant to this agreement, except as part of an investigation of a violation of law, or otherwise as permitted or required by federal statute, FBI/DOJ regulation or policy, or Presidential directive or Executive order.

- f) No person employed by or representing the TPT shall be given access to any classified information or material until appropriate clearance for access to such information and materials has been granted by the DOJ or other appropriate agency. The TPT will provide the appropriate authority with a list of persons cleared for access to classified information, and the TPT will advise the appropriate authority when an individual granted a clearance terminates employment with, or representation of, the TPT or otherwise no longer requires access to sensitive or classified material.

6. Effect of this Agreement

- a) This ~~MOU takes effect after the election with respect to a candidate who is determined to be an apparent successful candidate in accordance with the Presidential Transition Act. The MOU shall remain in effect until noon on January 20, 2025, or as otherwise agreed to by the parties. If there is a period of multiple possible apparent successful candidates, each candidate will be provided the services provided in this MOU until such time as a single candidate is determined to be the sole apparent successful candidate pursuant to the Presidential Transition Act. At that time, this MOU shall continue in effect for the sole apparent successful candidate but terminate for all other candidates.~~

Commented [MP1]: DOJ: Paragraph updated for current circumstances.

- b) This MOU is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law or otherwise by any third party against any of the parties, their parent entities, the United States, or the officers, employees, agents, or other associated personnel thereof.

- c) This MOU is not an obligation or commitment of funds, nor a basis for transfer of funds, but rather is a basic statement of the understanding between the parties of the matters described herein. Expenditures by each party will be subject to its budgetary processes and to the availability of funds and resources pursuant to applicable laws, regulations, and policies. The parties expressly acknowledge that the language in this MOU in no way implies that funds will be made available for such expenditures.

- e) ~~The parties acknowledge that any activity conducted pursuant to this MOU not be a service under Section 3 of the Presidential Transition Act and~~

~~expenditures for such activities will not be made with funds under Section 7(a)(1) of the Presidential Transition Act.~~

- d) The parties acknowledge that this MOU does not alter applicable law governing any claim for civil liability arising out of any activity conducted pursuant to this MOU or otherwise relating to this MOU.
- e) This MOU will be effective upon signatures by both parties. This MOU may be amended only by a written document signed by both parties.

Jolene Ann Lauria
Assistant Attorney General
for Administration
Department of Justice

[Transition Director]
Trump Presidential Transition

Dated: _____

Dated: _____

MEMORANDUM OF UNDERSTANDING

Between the
DEPARTMENT OF JUSTICE

and the
TRUMP PRESIDENTIAL TRANSITION

Regarding Name Checks and Background Investigations
conducted by the Federal Bureau of Investigation and
Adjudications by the Department of Justice

ELECTION 2024

1. Background

This Memorandum of Understanding (MOU) covers the procedures for Donald J. Trump, or an authorized designee of the Trump Presidential Transition (collectively "TPT"), to submit requests for name checks and background investigations for candidates for high-level national security positions through the level of undersecretary of cabinet departments in a new presidential administration, Agency Review Team members, and other individuals described below, to the Federal Bureau of Investigation (FBI), as well as the responsibilities of the FBI and the Department of Justice (DOJ) in connection with the requested investigations so that key Administration positions can be assumed without undue delay.¹ This MOU is made consistent with the purposes of Section 2 of the Presidential Transition Act of 1963, as amended.

2. Purpose

- a) The FBI will conduct file reviews ("name checks") and background investigations at the request of the TPT for applicants, employees, or any other persons expected to be engaged by contract or otherwise to perform services for the TPT or new administration (hereafter the subject of the requested name check, or background investigation shall be referred to as the "Appointee").
- b) Name checks and background investigations shall be conducted only to ascertain facts and information relevant to the Appointee's suitability for Federal government employment or fitness to serve as a contractor, employee, or volunteer in accordance with Executive Order 13467, as amended; and to determine the Appointee's trustworthiness for clearance to access information

¹ A name check consists of searching names that have been indexed as part of FBI criminal, national security, and background investigations to include other National Agency checks as appropriate. A background investigation may be a single scope background investigation, a 5-year reinvestigation, an expanded name check, a limited update, or a limited inquiry (such as follow-up inquiries conducted to resolve issues/questions).

classified under the provisions of Executive Order 13467, as amended, Executive Order 13526 (or any successor Executive Orders) and its implementing directives. The result of these name checks and background investigations will permit the Appointee to be adjudicated for suitability, fitness, or the appropriate clearance (including interim clearances when appropriate), including access to Sensitive Compartmented Information, in accordance with the standards set forth in Security Executive Agent Directive (SEAD) 4 and by any modifying policy memorandum or successor directive issued by the Office of the Director of National Intelligence.

3. Procedures for Submitting Requests

- a) The TPT shall make requests for FBI background investigations and name checks of Appointees in writing. Such requests shall be made by an official who has been designated in writing to make such requests.
- b) The TPT will provide the FBI via official correspondence with the title(s), name(s), and signature(s) of the person(s) designated to make such requests and will apprise the FBI by official correspondence of any changes in approval authority.
- c) All background investigation and name check requests must be submitted on the FBI's approved forms and must contain the verified signature of the designated official.
- d) The consent signed by the Appointee must be dated not earlier than 30 days from the date it is submitted to the FBI, except that an updated consent is not required for follow-up inquiries that are reasonably viewed as within the ambit of a previously-provided consent (e.g., when the TPT asks the FBI to develop further matters raised in support of a background investigation to which the Appointee consented). Requests for supplemental inquiries made within 6 months of the date of the Appointee's signed consent, within 30 days of the FBI's final report, or while an Appointee's confirmation is pending will be presumed to be within the ambit of the original consent.
- e) The reason for each name check or background investigation shall be indicated on the form and shall include the position for which the Appointee is being considered. No material changes will be made to the form's content or format without the written concurrence of the FBI.
- f) Each request for a name check or background investigation shall also include: (1) a completed Standard Form 86 (SF-86) (Questionnaire for National Security Positions); (2) a set of the Appointee's fingerprints on a standardized fingerprint card, or electronically submitted; and (3) a completed request form signed by the Appointee acknowledging his or her consent to be investigated, and acknowledging that information gathered shall be retained consistent with

applicable FBI and Department of Justice (DOJ) systems of records notices and records retention schedules.

- g) If a request form is missing any of the information included in (e) or (f), above, the FBI will not be able to complete it, with the limited exception discussed below in 4(e).
- h) While a background investigation is pending, if the TPT determines that the Appointee is not to be employed, serve as a contractor, or no longer needs a security clearance, the TPT will promptly notify the FBI so the background investigation or name check may be discontinued.

4. Reporting Results of Investigation

- a) Except as provided below, if during the course of the name check or background investigation, the FBI discovers adverse information regarding the Appointee, the FBI, through the Assistant Attorney General for Administration (AAG/A), who is the Department's lead transition official, or the AAG/A's designee, will promptly inform the TPT.
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- c) The FBI, when appropriate, will furnish reports and/or supporting materials, which contain the results of its name check and background investigations to the TPT as permitted by law and policy, and will retain records of the persons to whom such reports are furnished.
- d) DOJ will receive reports containing the results of the FBI's name checks and background investigations for high-level national security positions through the level of undersecretary of cabinet departments, Agency Review Team members, high-level DOJ appointees, and high-level White House Staff, as requested. Until noon on the date of inauguration, the DOJ, or other appropriate agency to which DOJ refers the matter, will make a determination whether to grant those Appointees appropriate national security clearances. For other name checks and background investigations requested by the TPT, the FBI will provide the results to the individual(s) designated by the TPT to receive such reports.

- e) The DOJ and the FBI may consider a request from the TPT for a name check or background investigation without the consent of the Appointee if justified by extraordinary circumstances. Such circumstances shall be documented in writing from the TPT to the Deputy Attorney General through the AAG/A and the FBI General Counsel and should explain why the Appointee's consent cannot be obtained or should not be sought.

5. Use and Maintenance of Investigative Reports

- a) The TPT will ensure that access to these reports is restricted to persons directly involved in ensuring the safety and security of Donald J. Trump or making a determination as to an Appointee's suitability or fitness for employment/appointment/recognition or trustworthiness for access to sensitive (e.g., law enforcement matters, personal information about individuals, privileged commercial or financial information, etc.) or classified information. The TPT may also afford access to these reports to the United States Secret Service or the Office of Security and Emergency Preparedness for the Executive Office of the President upon a determination that any such additional recipient has a legitimate need to know the information for the proper performance of official responsibilities and that any such disclosure is not otherwise precluded by applicable law.
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- e) Information obtained during a name check or background investigation will be retained by the FBI in accordance with FBI Privacy Act systems of records notices and records retention schedules. Certain information relating to pending federal civil or criminal matters may be disseminated on a need-to-know basis to other officials of the DOJ or other appropriate agencies to which the DOJ refers the matter. No further dissemination shall be made of information obtained during any investigation conducted pursuant to this agreement, except as part of an investigation of a violation of law, or otherwise as permitted or required by federal statute, FBI/DOJ regulation or policy, or Presidential directive or Executive order.
- f) No person employed by or representing the TPT shall be given access to any classified information or material until appropriate clearance for access to such information and materials has been granted by the DOJ or other appropriate agency. The TPT will provide the appropriate authority with a list of persons cleared for access to classified information, and the TPT will advise the appropriate authority when an individual granted a clearance terminates employment with, or representation of, the TPT or otherwise no longer requires access to sensitive or classified material.

6. Effect of this Agreement

- a) This MOU shall remain in effect until noon on January 20, 2025, or as otherwise agreed to by the parties.
- b) This MOU is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law or otherwise by any third party against any of the parties, their parent entities, the United States, or the officers, employees, agents, or other associated personnel thereof.
- c) This MOU is not an obligation or commitment of funds, nor a basis for transfer of funds, but rather is a basic statement of the understanding between the parties of the matters described herein. Expenditures by each party will be subject to its budgetary processes and to the availability of funds and resources pursuant to applicable laws, regulations, and policies. The parties expressly acknowledge that the language in this MOU in no way implies that funds will be made available for such expenditures.
- d) The parties acknowledge that this MOU does not alter applicable law governing any claim for civil liability arising out of any activity conducted pursuant to this MOU or otherwise relating to this MOU.

- e) This MOU will be effective upon signatures by both parties. This MOU may be amended only by a written document signed by both parties.

Jolene Ann Lauria
Assistant Attorney General
for Administration
Department of Justice

[Transition Director]
Trump Presidential Transition

Dated:

Dated:

From: "Lauria, Jolene A. (JMD)" (b) (6)
To: "Collier, Nikki (JMD)" (b) (6), "Posner, Morton J. (JMD)"
(b) (6) "Gunning, Christine E. (JMD)"
(b) (6)

Subject: Fwd: [EXTERNAL]Fwd: Post-election security MOU

Date: Tue, 03 Dec 2024 09:25:29 -0500

Importance: Normal

Attachments: 20241203_Post_Election_MOU-
DOJ_and_Trump_Presidential_Transition_Team(DRAFT).docx

Can you look at this. I'm a few minutes from the office. I'll sign it when I get in. Just about 10 min or so from office.

Adam is already texting me because others heard it imminent.
Sent from my iPhone

Begin forwarded message:

From: Dave Warrington (b) (6)
Date: December 3, 2024 at 9:16:50 AM EST
To: "Lauria, Jolene A. (JMD)" (b) (6)
Subject: RE: [EXTERNAL]Fwd: Post-election security MOU

Jolene,

Attached is the DOJ MOU with all of your changes accepted. I have made two small changes: 1) added the official legal name of the transition—Trump Vance Transition 2025, Inc.; and 2) added Susie's signature block.

If you are ok with these, this is the version we will sign and send back to you.

Thanks,

Dave

David A. Warrington | 47 Transition
GENERAL COUNSEL

Direct: (b) (6)
Mobile: (b) (6)

From: Dave Warrington
Sent: Monday, December 2, 2024 12:04 PM
To: Lauria, Jolene A. (JMD) (b) (6)
Subject: RE: [EXTERNAL]Fwd: Post-election security MOU

Hey Jolene,

I hope you and your family had a great Thanksgiving. Susie Wiles is currently reviewing the draft DOJ MOU that you sent to us on Wednesday.

I do not foresee any changes on our end. If we accept your edits to the version you sent with no other changes, would DOJ sign that version?

If so, I think we can get our signature to you later today once Susie has had a final read through.

Let me know.

Thanks,

Dave

David A. Warrington | 47 Transition
GENERAL COUNSEL

Direct: (b) (6)
Mobile: (b) (6)

From: Lauria, Jolene A. (JMD) (b) (6)
Sent: Wednesday, November 27, 2024 4:15 PM
To: Dave Warrington (b) (6)
Subject: [EXTERNAL]Fwd: Post-election security MOU

Dave-

As discussed. Looking forward to closing this out and having our security leads talk details on process and name sharing!

Have a great Thanksgiving!
Sent from my iPhone

Begin forwarded message:

From: "Posner, Morton J. (JMD)" (b) (6)
Date: November 27, 2024 at 2:32:45 PM EST
To: "Lauria, Jolene A. (JMD)" (b) (6)
Subject: Post-election security MOU

Jolene,

Attached is the most recent redlined DOJ version of the post-election security MOU, in response to the version you received from David Warrington on 11/19. Also attached is a clean copy of that version.

Morty

Morton J. Posner
General Counsel
Justice Management Division

MEMORANDUM OF UNDERSTANDING

Between the
DEPARTMENT OF JUSTICE

and the
TRUMP PRESIDENTIAL TRANSITION

Regarding Name Checks and Background Investigations
conducted by the Federal Bureau of Investigation and
Adjudications by the Department of Justice

ELECTION 2024

1. Background

This Memorandum of Understanding (MOU) covers the procedures for Donald J. Trump, or an authorized designee of **Trump Vance Transition 2025, Inc.** ~~the Trump Presidential Transition~~ (collectively "TPT"), to submit requests for name checks and background investigations for candidates for high-level national security positions through the level of undersecretary of cabinet departments in a new presidential administration, Agency Review Team members, and other individuals described below, to the Federal Bureau of Investigation (FBI), as well as the responsibilities of the FBI and the Department of Justice (DOJ) in connection with the requested investigations so that key Administration positions can be assumed without undue delay.¹ This MOU is made consistent with the purposes of Section 2 of the Presidential Transition Act of 1963, as amended.

2. Purpose

- a) The FBI will conduct file reviews ("name checks") and background investigations at the request of the TPT for applicants, employees, or any other persons expected to be engaged by contract or otherwise to perform services for the TPT or new administration (hereafter the subject of the requested name check, or background investigation shall be referred to as the "Appointee").
- b) Name checks and background investigations shall be conducted only to ascertain facts and information relevant to the Appointee's suitability for Federal government employment or fitness to serve as a contractor, employee, or volunteer in accordance with Executive Order 13467, as amended; and to determine the Appointee's trustworthiness for clearance to access information

¹ A name check consists of searching names that have been indexed as part of FBI criminal, national security, and background investigations to include other National Agency checks as appropriate. A background investigation may be a single scope background investigation, a 5-year reinvestigation, an expanded name check, a limited update, or a limited inquiry (such as follow-up inquiries conducted to resolve issues/questions).

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- a) The TPT shall make requests for FBI background investigations and name checks of Appointees in writing. Such requests shall be made by an official who has been designated in writing to make such requests.
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- c) All background investigation and name check requests must be submitted on the FBI's approved forms and must contain the verified signature of the designated official.
- d) The consent signed by the Appointee must be dated not earlier than 30 days from the date it is submitted to the FBI, except that an updated consent is not required for follow-up inquiries that are reasonably viewed as within the ambit of a previously-provided consent (e.g., when the TPT asks the FBI to develop further matters raised in support of a background investigation to which the Appointee consented). Requests for supplemental inquiries made within 6 months of the date of the Appointee's signed consent, within 30 days of the FBI's final report, or while an Appointee's confirmation is pending will be presumed to be within the ambit of the original consent.
- e) The reason for each name check or background investigation shall be indicated on the form and shall include the position for which the Appointee is being considered. No material changes will be made to the form's content or format without the written concurrence of the FBI.
- f) Each request for a name check or background investigation shall also include: (1) a completed Standard Form 86 (SF-86) (Questionnaire for National Security Positions); (2) a set of the Appointee's fingerprints on a standardized fingerprint card, or electronically submitted; and (3) a completed request form signed by the Appointee acknowledging his or her consent to be investigated, and acknowledging that information gathered shall be retained consistent with

applicable FBI and Department of Justice (DOJ) systems of records notices and records retention schedules.

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- h) While a background investigation is pending, if the TPT determines that the Appointee is not to be employed, serve as a contractor, or no longer needs a security clearance, the TPT will promptly notify the FBI so the background investigation or name check may be discontinued.

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- a) Except as provided below, if during the course of the name check or background investigation, the FBI discovers adverse information regarding the Appointee, the FBI, through the Assistant Attorney General for Administration (AAG/A), who is the Department's lead transition official, or the AAG/A's designee, will promptly inform the TPT.
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- d) DOJ will receive reports containing the results of the FBI's name checks and background investigations for high-level national security positions through the level of undersecretary of cabinet departments, Agency Review Team members, high-level DOJ appointees, and high-level White House Staff, as requested. Until noon on the date of inauguration, the DOJ, or other appropriate agency to which DOJ refers the matter, will make a determination whether to grant those Appointees appropriate national security clearances. For other name checks and background investigations requested by the TPT, the FBI will provide the results to the individual(s) designated by the TPT to receive such reports.
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- b) The TPT shall maintain, disseminate, and dispose of name check and background investigation records and reports in accordance with applicable legal requirements, including the Privacy Act. The TPT shall maintain records identifying all persons receiving access to these records and reports, and such TPT records shall be furnished to the FBI upon request.
- c) The TPT will ensure that all reports received, and any copies made of those reports will be retained until a successor agreement or January 20, 2025, whichever comes first, at which time the reports shall be provided to an appropriate Executive Branch official to be retained in accordance with applicable legal requirements.
- d) The TPT may not allow the Appointee or any person outside of the appointment, employment, security clearance, confirmation, Presidential recognition, or Presidential protection processes direct access to the reports, copies of the reports, or any information derived from the reports. If deemed necessary to discuss the contents of reports with the Appointee, the TPT will ensure that the confidentiality of the sources contained therein will be protected in accordance with applicable legal requirements. Any request by the Appointee for access to the reports will be referred to the FBI for processing in accordance with both the Privacy Act and the Freedom of Information Act.
- e) Information obtained during a name check or background investigation will be retained by the FBI in accordance with FBI Privacy Act systems of records notices and records retention schedules. Certain information relating to

pending federal civil or criminal matters may be disseminated on a need-to-know basis to other officials of the DOJ or other appropriate agencies to which the DOJ refers the matter. No further dissemination shall be made of information obtained during any investigation conducted pursuant to this agreement, except as part of an investigation of a violation of law, or otherwise as permitted or required by federal statute, FBI/DOJ regulation or policy, or Presidential directive or Executive order.

- f) No person employed by or representing the TPT shall be given access to any classified information or material until appropriate clearance for access to such information and materials has been granted by the DOJ or other appropriate agency. The TPT will provide the appropriate authority with a list of persons cleared for access to classified information, and the TPT will advise the appropriate authority when an individual granted a clearance terminates employment with, or representation of, the TPT or otherwise no longer requires access to sensitive or classified material.

6. Effect of this Agreement

- a) This MOU shall remain in effect until noon on January 20, 2025, or as otherwise agreed to by the parties.
- b) This MOU is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law or otherwise by any third party against any of the parties, their parent entities, the United States, or the officers, employees, agents, or other associated personnel thereof.
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- e) This MOU will be effective upon signatures by both parties. This MOU may be amended only by a written document signed by both parties.

Jolene Ann Lauria
Assistant Attorney General
for Administration
Department of Justice

Susie Wiles~~[Transition Director]~~
Chief of Staff to the President-elect
and Director Trump Vance
Transition 2025, Inc.
~~Trump Presidential Transition~~

Dated: _____

Dated: _____

From: "Collier, Nikki (JMD)" (b) (6)
To: "Lauria, Jolene A. (JMD)" (b) (6)
Cc: "Gunning, Christine E. (JMD)" (b) (6), "Posner, Morton J. (JMD)" (b) (6)
Subject: [FOR AAG/A SIGNATURE]: Post-election security MOU
Date: Tue, 03 Dec 2024 09:56:00 -0500

Importance: High

Attachments: Post_Election_MOU_-
_DOJ_and_Trump_Presidential_Transition_Team_2024_FINAL_12.03.2024_CLEAN.docx;
Post_Election_MOU_-
_DOJ_and_Trump_Presidential_Transition_Team_2024_FINAL_12.03.2024.pdf;
Post_Election_MOU_-
_DOJ_and_Trump_Presidential_Transition_Team_2024_FINAL_12.03.2024_(without_eSig
n).pdf

Jolene,

Here goes three versions.

1. CLEAN of the 47 Team redline version
2. FOR SIGNATURE – PDF with two eSignature blocks
3. FOR SIGNATURE – PDF with only your eSignature block; just in case the Chief of Staff does not have eSignature capability

v/r,
Nikki

Dr. Shantrell N. Collier
Chief of Staff
to the Assistant Attorney General for Administration
Justice Management Division (JMD)
U.S. Department of Justice (DOJ)
Office: (b) (6) | Mobile: (b) (6)
Email: (b) (6)

From: Lauria, Jolene A. (JMD) (b) (6)
Sent: Tuesday, December 3, 2024 9:37 AM
To: Posner, Morton J. (JMD) (b) (6)
Cc: Collier, Nikki (JMD) (b) (6); Gunning, Christine E. (JMD) (b) (6)
Subject: Re: [EXTERNAL]Fwd: Post-election security MOU

Great. I'll sign it when I get in and get it over to them.
Sent from my iPhone

On Dec 3, 2024, at 9:35 AM, Posner, Morton J. (JMD) (b) (6) wrote:

Looks good.

From: Lauria, Jolene A. (JMD) (b) (6)

Sent: Tuesday, December 3, 2024 9:25 AM

To: Collier, Nikki (JMD) (b) (6); Posner, Morton J. (JMD) (b) (6); Gunning, Christine E. (JMD) (b) (6)

Subject: Fwd: [EXTERNAL]Fwd: Post-election security MOU

Can you look at this. I'm a few minutes from the office. I'll sign it when I get in. Just about 10 min or so from office.

Adam is already texting me because others heard it imminent.
Sent from my iPhone

Begin forwarded message:

From: Dave Warrington (b) (6)

Date: December 3, 2024 at 9:16:50 AM EST

To: "Lauria, Jolene A. (JMD)" (b) (6)

Subject: RE: [EXTERNAL]Fwd: Post-election security MOU

Jolene,

Attached is the DOJ MOU with all of your changes accepted. I have made two small changes: 1) added the official legal name of the transition—Trump Vance Transition 2025, Inc.; and 2) added Susie's signature block.

If you are ok with these, this is the version we will sign and send back to you.

Thanks,

Dave

David A. Warrington | 47 Transition

GENERAL COUNSEL

Direct: 703.574.1206

Mobile: 703.328.5369

From: Dave Warrington

Sent: Monday, December 2, 2024 12:04 PM

To: Lauria, Jolene A. (JMD) (b) (6)

Subject: RE: [EXTERNAL]Fwd: Post-election security MOU

Hey Jolene,

I hope you and your family had a great Thanksgiving. Susie Wiles is currently reviewing the draft DOJ MOU that you sent to us on Wednesday.

I do not foresee any changes on our end. If we accept your edits to the version you sent with no other changes, would DOJ sign that version?

If so, I think we can get our signature to you later today once Susie has had a final read through.

Let me know.

Thanks,

Dave

David A. Warrington | 47 Transition
GENERAL COUNSEL

Direct: (b) (6)
Mobile: (b) (6)

From: Lauria, Jolene A. (JMD) (b) (6)
Sent: Wednesday, November 27, 2024 4:15 PM
To: Dave Warrington (b) (6)
Subject: [EXTERNAL]Fwd: Post-election security MOU

Dave-

As discussed. Looking forward to closing this out and having our security leads talk details on process and name sharing!

Have a great Thanksgiving!
Sent from my iPhone

Begin forwarded message:

From: "Posner, Morton J. (JMD)" (b) (6)
Date: November 27, 2024 at 2:32:45 PM EST
To: "Lauria, Jolene A. (JMD)" (b) (6)
Subject: Post-election security MOU

Jolene,

Attached is the most recent redlined DOJ version of the post-election security MOU, in response to the version you received from David Warrington on 11/19. Also attached is a clean copy of that version.

Morty

Morton J. Posner
General Counsel
Justice Management Division

MEMORANDUM OF UNDERSTANDING

Between the
DEPARTMENT OF JUSTICE

and the
TRUMP PRESIDENTIAL TRANSITION

Regarding Name Checks and Background Investigations
conducted by the Federal Bureau of Investigation and
Adjudications by the Department of Justice

ELECTION 2024

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2. Purpose

- a) The FBI will conduct file reviews ("name checks") and background investigations at the request of the TPT for applicants, employees, or any other persons expected to be engaged by contract or otherwise to perform services for the TPT or new administration (hereafter the subject of the requested name check, or background investigation shall be referred to as the "Appointee").
- b) Name checks and background investigations shall be conducted only to ascertain facts and information relevant to the Appointee's suitability for Federal government employment or fitness to serve as a contractor, employee, or volunteer in accordance with Executive Order 13467, as amended; and to determine the Appointee's trustworthiness for clearance to access information

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3. Procedures for Submitting Requests

- a) The TPT shall make requests for FBI background investigations and name checks of Appointees in writing. Such requests shall be made by an official who has been designated in writing to make such requests.
- b) The TPT will provide the FBI via official correspondence with the title(s), name(s), and signature(s) of the person(s) designated to make such requests and will apprise the FBI by official correspondence of any changes in approval authority.
- c) All background investigation and name check requests must be submitted on the FBI's approved forms and must contain the verified signature of the designated official.
- d) The consent signed by the Appointee must be dated not earlier than 30 days from the date it is submitted to the FBI, except that an updated consent is not required for follow-up inquiries that are reasonably viewed as within the ambit of a previously-provided consent (e.g., when the TPT asks the FBI to develop further matters raised in support of a background investigation to which the Appointee consented). Requests for supplemental inquiries made within 6 months of the date of the Appointee's signed consent, within 30 days of the FBI's final report, or while an Appointee's confirmation is pending will be presumed to be within the ambit of the original consent.
- e) The reason for each name check or background investigation shall be indicated on the form and shall include the position for which the Appointee is being considered. No material changes will be made to the form's content or format without the written concurrence of the FBI.
- f) Each request for a name check or background investigation shall also include: (1) a completed Standard Form 86 (SF-86) (Questionnaire for National Security Positions); (2) a set of the Appointee's fingerprints on a standardized fingerprint card, or electronically submitted; and (3) a completed request form signed by the Appointee acknowledging his or her consent to be investigated, and acknowledging that information gathered shall be retained consistent with

applicable FBI and Department of Justice (DOJ) systems of records notices and records retention schedules.

- g) If a request form is missing any of the information included in (e) or (f), above, the FBI will not be able to complete it, with the limited exception discussed below in 4(e).
- h) While a background investigation is pending, if the TPT determines that the Appointee is not to be employed, serve as a contractor, or no longer needs a security clearance, the TPT will promptly notify the FBI so the background investigation or name check may be discontinued.

4. Reporting Results of Investigation

- a) Except as provided below, if during the course of the name check or background investigation, the FBI discovers adverse information regarding the Appointee, the FBI, through the Assistant Attorney General for Administration (AAG/A), who is the Department's lead transition official, or the AAG/A's designee, will promptly inform the TPT.
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- c) The FBI, when appropriate, will furnish reports and/or supporting materials, which contain the results of its name check and background investigations to the TPT as permitted by law and policy, and will retain records of the persons to whom such reports are furnished.
- d) DOJ will receive reports containing the results of the FBI's name checks and background investigations for high-level national security positions through the level of undersecretary of cabinet departments, Agency Review Team members, high-level DOJ appointees, and high-level White House Staff, as requested. Until noon on the date of inauguration, the DOJ, or other appropriate agency to which DOJ refers the matter, will make a determination whether to grant those Appointees appropriate national security clearances. For other name checks and background investigations requested by the TPT, the FBI will provide the results to the individual(s) designated by the TPT to receive such reports.

- e) The DOJ and the FBI may consider a request from the TPT for a name check or background investigation without the consent of the Appointee if justified by extraordinary circumstances. Such circumstances shall be documented in writing from the TPT to the Deputy Attorney General through the AAG/A and the FBI General Counsel and should explain why the Appointee's consent cannot be obtained or should not be sought.

5. Use and Maintenance of Investigative Reports

- a) The TPT will ensure that access to these reports is restricted to persons directly involved in ensuring the safety and security of Donald J. Trump or making a determination as to an Appointee's suitability or fitness for employment/appointment/recognition or trustworthiness for access to sensitive (e.g., law enforcement matters, personal information about individuals, privileged commercial or financial information, etc.) or classified information. The TPT may also afford access to these reports to the United States Secret Service or the Office of Security and Emergency Preparedness for the Executive Office of the President upon a determination that any such additional recipient has a legitimate need to know the information for the proper performance of official responsibilities and that any such disclosure is not otherwise precluded by applicable law.
- b) The TPT shall maintain, disseminate, and dispose of name check and background investigation records and reports in accordance with applicable legal requirements, including the Privacy Act. The TPT shall maintain records identifying all persons receiving access to these records and reports, and such TPT records shall be furnished to the FBI upon request.
- c) The TPT will ensure that all reports received, and any copies made of those reports will be retained until a successor agreement or January 20, 2025, whichever comes first, at which time the reports shall be provided to an appropriate Executive Branch official to be retained in accordance with applicable legal requirements.
- d) The TPT may not allow the Appointee or any person outside of the appointment, employment, security clearance, confirmation, Presidential recognition, or Presidential protection processes direct access to the reports, copies of the reports, or any information derived from the reports. If deemed necessary to discuss the contents of reports with the Appointee, the TPT will ensure that the confidentiality of the sources contained therein will be protected in accordance with applicable legal requirements. Any request by the Appointee for access to the reports will be referred to the FBI for processing in accordance with both the Privacy Act and the Freedom of Information Act.
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6. Effect of this Agreement

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- c) This MOU is not an obligation or commitment of funds, nor a basis for transfer of funds, but rather is a basic statement of the understanding between the parties of the matters described herein. Expenditures by each party will be subject to its budgetary processes and to the availability of funds and resources pursuant to applicable laws, regulations, and policies. The parties expressly acknowledge that the language in this MOU in no way implies that funds will be made available for such expenditures.
- d) The parties acknowledge that this MOU does not alter applicable law governing any claim for civil liability arising out of any activity conducted pursuant to this MOU or otherwise relating to this MOU.
- e) This MOU will be effective upon signatures by both parties. This MOU may be amended only by a written document signed by both parties.

Jolene Ann Lauria
Assistant Attorney General
for Administration
Department of Justice

Dated: _____

Susie Wiles
Chief of Staff to the President-elect
and Director Trump Vance
Transition 2025, Inc.

Dated: _____

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- b) The TPT shall maintain, disseminate, and dispose of name check and background investigation records and reports in accordance with applicable legal requirements, including the Privacy Act. The TPT shall maintain records identifying all persons receiving access to these records and reports, and such TPT records shall be furnished to the FBI upon request.
- c) The TPT will ensure that all reports received, and any copies made of those reports will be retained until a successor agreement or January 20, 2025, whichever comes first, at which time the reports shall be provided to an appropriate Executive Branch official to be retained in accordance with applicable legal requirements.
- d) The TPT may not allow the Appointee or any person outside of the appointment, employment, security clearance, confirmation, Presidential recognition, or Presidential protection processes direct access to the reports, copies of the reports, or any information derived from the reports. If deemed necessary to discuss the contents of reports with the Appointee, the TPT will ensure that the confidentiality of the sources contained therein will be protected in accordance with applicable legal requirements. Any request by the Appointee for access to the reports will be referred to the FBI for processing in accordance with both the Privacy Act and the Freedom of Information Act.
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- f) No person employed by or representing the TPT shall be given access to any classified information or material until appropriate clearance for access to such information and materials has been granted by the DOJ or other appropriate agency. The TPT will provide the appropriate authority with a list of persons cleared for access to classified information, and the TPT will advise the appropriate authority when an individual granted a clearance terminates employment with, or representation of, the TPT or otherwise no longer requires access to sensitive or classified material.

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- e) This MOU will be effective upon signatures by both parties. This MOU may be amended only by a written document signed by both parties.

Jolene Ann Lauria
Assistant Attorney General
for Administration
Department of Justice

Dated: _____

Susie Wiles
Chief of Staff to the President-elect
and Director Trump Vance
Transition 2025, Inc.

Dated: _____

From: "Collier, Nikki (JMD)" (b) (6)
To: "Lauria, Jolene A. (JMD)" (b) (6)
Cc: "Gunning, Christine E. (JMD)" (b) (6) "Posner, Morton J. (JMD)" (b) (6)
Subject: [FOR 47 TEAM SIGNATURE]: Post-election security MOU
Date: Tue, 03 Dec 2024 10:12:02 -0500

Importance: Normal

Attachments: Post_Election_MOU_-
_DOJ_and_Trump_Presidential_Transition_Team_2024_FINAL_12.03.2024_-
_DOJ_Signed.pdf

Jolene,

Ready to send to Trump's team.

v/r,
Nikki

Dr. Shantrell N. Collier
Chief of Staff
to the Assistant Attorney General for Administration
Justice Management Division (JMD)
U.S. Department of Justice (DOJ)
Office: (b) (6) | Mobile: (b) (6)
Email: (b) (6)

From: Collier, Nikki (JMD)
Sent: Tuesday, December 3, 2024 9:56 AM
To: Lauria, Jolene A. (JMD) (b) (6)
Cc: Gunning, Christine E. (JMD) (b) (6) Posner, Morton J. (JMD)
(b) (6)
Subject: [FOR AAG/A SIGNATURE]: Post-election security MOU
Importance: High

Jolene,

Here goes three versions.

1. CLEAN of the 47 Team redline version
2. FOR SIGNATURE – PDF with two eSignature blocks
3. FOR SIGNATURE – PDF with only your eSignature block; just in case the Chief of Staff does not have eSignature capability

v/r,
Nikki

Dr. Shantrell N. Collier
Chief of Staff
to the Assistant Attorney General for Administration
Justice Management Division (JMD)
U.S. Department of Justice (DOJ)
Office: (b) (6) | Mobile: (b) (6)
Email: (b) (6)

From: Lauria, Jolene A. (JMD) (b) (6) >
Sent: Tuesday, December 3, 2024 9:37 AM
To: Posner, Morton J. (JMD) (b) (6)
Cc: Collier, Nikki (JMD) (b) (6); Gunning, Christine E. (JMD) (b) (6)
Subject: Re: [EXTERNAL]Fwd: Post-election security MOU

Great. I'll sign it when I get in and get it over to them.
Sent from my iPhone

On Dec 3, 2024, at 9:35 AM, Posner, Morton J. (JMD) (b) (6) wrote:

Looks good.

From: Lauria, Jolene A. (JMD) (b) (6)
Sent: Tuesday, December 3, 2024 9:25 AM
To: Collier, Nikki (JMD) (b) (6); Posner, Morton J. (JMD) (b) (6); Gunning, Christine E. (JMD) (b) (6)
Subject: Fwd: [EXTERNAL]Fwd: Post-election security MOU

Can you look at this. I'm a few minutes from the office. I'll sign it when I get in. Just about 10 min or so from office.

Adam is already texting me because others heard it imminent.
Sent from my iPhone

Begin forwarded message:

From: Dave Warrington (b) (6)
Date: December 3, 2024 at 9:16:50 AM EST
To: "Lauria, Jolene A. (JMD)" (b) (6)
Subject: RE: [EXTERNAL]Fwd: Post-election security MOU

Jolene,

Attached is the DOJ MOU with all of your changes accepted. I have made two small changes: 1) added the official legal name of the transition Trump Vance Transition 2025, Inc.; and 2) added Susie's signature block.

If you are ok with these, this is the version we will sign and send back to you.

Thanks,

Dave

David A. Warrington | 47 Transition
GENERAL COUNSEL

Direct: (b) (6)
Mobile (b) (6)

From: Dave Warrington
Sent: Monday, December 2, 2024 12:04 PM
To: Lauria, Jolene A. (JMD) (b) (6)
Subject: RE: [EXTERNAL]Fwd: Post-election security MOU

Hey Jolene,

I hope you and your family had a great Thanksgiving. Susie Wiles is currently reviewing the draft DOJ MOU that you sent to us on Wednesday.

I do not foresee any changes on our end. If we accept your edits to the version you sent with no other changes, would DOJ sign that version?

If so, I think we can get our signature to you later today once Susie has had a final read through.

Let me know.

Thanks,

Dave

David A. Warrington | 47 Transition
GENERAL COUNSEL

Direct: (b) (6)
Mobile (b) (6)

From: Lauria, Jolene A. (JMD) (b) (6)
Sent: Wednesday, November 27, 2024 4:15 PM
To: Dave Warrington (b) (6)
Subject: [EXTERNAL]Fwd: Post-election security MOU

Dave-

As discussed. Looking forward to closing this out and having our security leads talk details on process and name sharing!

Have a great Thanksgiving!
Sent from my iPhone

Begin forwarded message:

From: "Posner, Morton J. (JMD)" [REDACTED] (b) (6)

Date: November 27, 2024 at 2:32:45 PM EST

To: "Lauria, Jolene A. (JMD)" [REDACTED] (b) (6)

Subject: Post-election security MOU

Jolene,

Attached is the most recent redlined DOJ version of the post-election security MOU, in response to the version you received from David Warrington on 11/19. Also attached is a clean copy of that version.

Morty

Morton J. Posner
General Counsel
Justice Management Division

MEMORANDUM OF UNDERSTANDING

Between the
DEPARTMENT OF JUSTICE
and the

TRUMP PRESIDENTIAL TRANSITION

Regarding Name Checks and Background Investigations
conducted by the Federal Bureau of Investigation and
Adjudications by the Department of Justice

ELECTION 2024

1. Background

This Memorandum of Understanding (MOU) covers the procedures for Donald J. Trump, or an authorized designee of Trump Vance Transition 2025, Inc. (collectively "TPT"), to submit requests for name checks and background investigations for candidates for high-level national security positions through the level of undersecretary of cabinet departments in a new presidential administration, Agency Review Team members, and other individuals described below, to the Federal Bureau of Investigation (FBI), as well as the responsibilities of the FBI and the Department of Justice (DOJ) in connection with the requested investigations so that key Administration positions can be assumed without undue delay.¹ This MOU is made consistent with the purposes of Section 2 of the Presidential Transition Act of 1963, as amended.

2. Purpose

- a) The FBI will conduct file reviews ("name checks") and background investigations at the request of the TPT for applicants, employees, or any other persons expected to be engaged by contract or otherwise to perform services for the TPT or new administration (hereafter the subject of the requested name check, or background investigation shall be referred to as the "Appointee").
- b) Name checks and background investigations shall be conducted only to ascertain facts and information relevant to the Appointee's suitability for Federal government employment or fitness to serve as a contractor, employee, or volunteer in accordance with Executive Order 13467, as amended; and to determine the Appointee's trustworthiness for clearance to access information

¹ A name check consists of searching names that have been indexed as part of FBI criminal, national security, and background investigations to include other National Agency checks as appropriate. A background investigation may be a single scope background investigation, a 5-year reinvestigation, an expanded name check, a limited update, or a limited inquiry (such as follow-up inquiries conducted to resolve issues/questions).

classified under the provisions of Executive Order 13467, as amended, Executive Order 13526 (or any successor Executive Orders) and its implementing directives. The result of these name checks and background investigations will permit the Appointee to be adjudicated for suitability, fitness, or the appropriate clearance (including interim clearances when appropriate), including access to Sensitive Compartmented Information, in accordance with the standards set forth in Security Executive Agent Directive (SEAD) 4 and by any modifying policy memorandum or successor directive issued by the Office of the Director of National Intelligence.

3. Procedures for Submitting Requests

- a) The TPT shall make requests for FBI background investigations and name checks of Appointees in writing. Such requests shall be made by an official who has been designated in writing to make such requests.
- b) The TPT will provide the FBI via official correspondence with the title(s), name(s), and signature(s) of the person(s) designated to make such requests and will apprise the FBI by official correspondence of any changes in approval authority.
- c) All background investigation and name check requests must be submitted on the FBI's approved forms and must contain the verified signature of the designated official.
- d) The consent signed by the Appointee must be dated not earlier than 30 days from the date it is submitted to the FBI, except that an updated consent is not required for follow-up inquiries that are reasonably viewed as within the ambit of a previously-provided consent (e.g., when the TPT asks the FBI to develop further matters raised in support of a background investigation to which the Appointee consented). Requests for supplemental inquiries made within 6 months of the date of the Appointee's signed consent, within 30 days of the FBI's final report, or while an Appointee's confirmation is pending will be presumed to be within the ambit of the original consent.
- e) The reason for each name check or background investigation shall be indicated on the form and shall include the position for which the Appointee is being considered. No material changes will be made to the form's content or format without the written concurrence of the FBI.
- f) Each request for a name check or background investigation shall also include: (1) a completed Standard Form 86 (SF-86) (Questionnaire for National Security Positions); (2) a set of the Appointee's fingerprints on a standardized fingerprint card, or electronically submitted; and (3) a completed request form signed by the Appointee acknowledging his or her consent to be investigated, and acknowledging that information gathered shall be retained consistent with

applicable FBI and Department of Justice (DOJ) systems of records notices and records retention schedules.

- g) If a request form is missing any of the information included in (e) or (f), above, the FBI will not be able to complete it, with the limited exception discussed below in 4(e).
- h) While a background investigation is pending, if the TPT determines that the Appointee is not to be employed, serve as a contractor, or no longer needs a security clearance, the TPT will promptly notify the FBI so the background investigation or name check may be discontinued.

4. Reporting Results of Investigation

- a) Except as provided below, if during the course of the name check or background investigation, the FBI discovers adverse information regarding the Appointee, the FBI, through the Assistant Attorney General for Administration (AAG/A), who is the Department's lead transition official, or the AAG/A's designee, will promptly inform the TPT.
- b) A name check or background investigation report is a snapshot in time that reflects the applicable information available to FBI upon completion of its name check or background investigation. The TPT should submit a new request if updated information is desired. However, prior to an Appointee's assuming the position or being adjudicated for the clearance for which the investigation was conducted, if the FBI becomes aware of additional adverse information about the Appointee, the FBI, through the AAG/A (or their designee), will so apprise the TPT.
- c) The FBI, when appropriate, will furnish reports and/or supporting materials, which contain the results of its name check and background investigations to the TPT as permitted by law and policy, and will retain records of the persons to whom such reports are furnished.
- d) DOJ will receive reports containing the results of the FBI's name checks and background investigations for high-level national security positions through the level of undersecretary of cabinet departments, Agency Review Team members, high-level DOJ appointees, and high-level White House Staff, as requested. Until noon on the date of inauguration, the DOJ, or other appropriate agency to which DOJ refers the matter, will make a determination whether to grant those Appointees appropriate national security clearances. For other name checks and background investigations requested by the TPT, the FBI will provide the results to the individual(s) designated by the TPT to receive such reports.

- e) The DOJ and the FBI may consider a request from the TPT for a name check or background investigation without the consent of the Appointee if justified by extraordinary circumstances. Such circumstances shall be documented in writing from the TPT to the Deputy Attorney General through the AAG/A and the FBI General Counsel and should explain why the Appointee's consent cannot be obtained or should not be sought.

5. Use and Maintenance of Investigative Reports

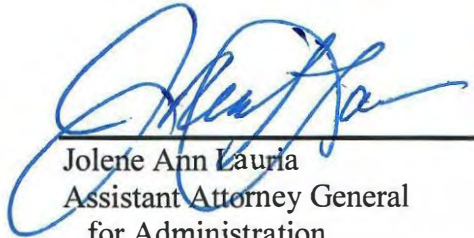
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Jolene Ann Lauria
Assistant Attorney General
for Administration
Department of Justice

Dated: 12/3/24

Susie Wiles
Chief of Staff to the President-elect
and Director Trump Vance
Transition 2025, Inc.

Dated: _____

From: Dave Warrington (b) (6)

To: "Lauria, Jolene A. (JMD)" (b) (6)

Subject: [EXTERNAL] Signed MOU

Date: Tue, 03 Dec 2024 15:18:51 -0500

Importance: Normal

Attachments: MOU_-_DOJ+_Transition.pdf

Jolene, attached is a copy of the fully executed MOU. Thank you for your help on bringing this along.

Get [Outlook for iOS](#).

MEMORANDUM OF UNDERSTANDING

**Between the
DEPARTMENT OF JUSTICE
and the
TRUMP PRESIDENTIAL TRANSITION**

**Regarding Name Checks and Background Investigations
conducted by the Federal Bureau of Investigation and
Adjudications by the Department of Justice**

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MOU for FBI Background Investigations and DOJ Adjudications, Election 2024


Joanne Ann Lauria
Assistant Attorney General
for Administration
Department of Justice

Dated: 12/3/24


Susie Wiles
Chief of Staff to the President-elect
and Director Trump Voice 2025
Transition, Inc.

Dated: 12/4/24