

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 2025 Transition, 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

- 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.

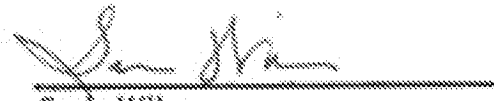
6. Effect of this Agreement

- a) This MOU 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.



Jocene 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 2025
Transition, Inc.

Dated: 12/4/24