United States Senate
COMMITTEE ON FINANCE
WASHINGTON, DC 20510–6200

May 8, 2025

The Honorable Robert F. Kennedy, Jr.
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, D.C., 20201

Dear Secretary Kennedy:

I write regarding reports of mass firings at the U.S. Department of Health and Human Services (HHS), including the wholesale elimination of teams that are responsible for responding to record requests at some subagencies. You have since publicly committed to "restoring all FOIA offices" in a press conference, a move which I would welcome if it means rehiring the eliminated staff, but have offered no details regarding what this entails. In your confirmation hearing before the Senate Finance Committee (SFC), you told Senator Grassley, "[m]y approach to [the] administration [of] HHS will be radical transparency." In response to a question from Senator Johnson, you reaffirmed this same commitment, explaining "[m]y approach to HHS, I said before, Senator, is radical transparency. Democrats and Republicans ought to be able to come in and get information that was generated at taxpayer expense, that is owned by the American taxpayer." It is hard to square your commitment to radical transparency with your firings of teams responsible for responding to record requests. Your actions raise grave transparency, accountability, and privacy concerns.

The Freedom of Information Act (FOIA) is a critical government oversight and accountability tool, which improves public trust. In 1967, with the passage of the law, Congress threw open the doors of government to the American people. FOIA provides that anyone can request disclosure of information and documents held by the United States government, and applies to all records created by executive branch agencies. The government is required to respond to such requests within 20 working days. FOIA also enables government transparency by requiring the posting of certain agency information online. Journalists, researchers, academics, lawyers, advocacy groups, nonprofits, businesses, and everyday citizens rely on FOIA to hold the government accountable and maintain an informed citizenry.

While there is a centralized FOIA office at the HHS Office of the Secretary (OS), most FOIAs are handled by one of HHS's subagencies. HHS OS processes FOIAs related to general agency

operations, and then operating divisions process subject matter specific FOIAs. This system is practical, efficient and best suited to handling sensitive information, like personally identifiable information (PII) and proprietary information. FOIA works best when trained agency staff, who are familiar with the types of documents their subagency produces and the degree of sensitive information held in those documents, are assigned to fulfill FOIA requests. This division of labor allows for that specialization and helps safeguard against sensitive information being improperly disclosed in a FOIA response. At the bare minimum, responding to FOIA requests requires staff.

According to reports, the FOIA teams at the National Institutes of Health (NIH), the Centers for Disease Control and Prevention (CDC), and the Administration for Children and Families (ACF) have been wiped-out entirely.[1] Further, there have been extensive firings at numerous FOIA offices at centers within the Food and Drug Administration (FDA). Recently, it was reported that some FOIA staff at FDA had been rehired.[2]

The subagencies targeted by your FOIA firings are also the same subagencies about which you expressed historical, personal discontent. In your SFC confirmation hearing you said "I've spent many years litigating against…HHS and its subagencies NIH, CDC, FDA on FOIA issues, trying to get information that we, the taxpayers, paid for." Of the many subagencies within HHS jurisdiction, NIH, CDC, and FDA bore the brunt of your FOIA firings, suggesting that you may be seeking retribution against the very same entities you viewed as unresponsive to your FOIA requests.

Federal agencies receive thousands of FOIA requests each year, and experience material challenges in keeping up with them. While agencies respond to some simple track requests within the 20 day working window requirement, this is largely untrue for more complex requests, and overall, there is a substantial backlog. At HHS, there are almost 13,000 backlogged FOIA requests, and 49 percent of these backlogged requests are at the components impacted by your firings. Gutting staff at NIH, CDC, ACF, and FDA FOIA offices – or any FOIA offices – will make it even more difficult for HHS to respond to FOIA requests in a timely manner. This will grow the already significant FOIA backlog and hinder the American people's timely access to important information.

It is essential that FOIA offices have the resources to disclose appropriate information to the public in response to records requests. Such transparency has served as the basis for groundbreaking public reporting, litigation, and legislation addressing program inadequacies and targeting outcomes. During times of rapid changes to government agencies, citizen oversight is a cornerstone of a functioning democracy and these agencies must have adequate resources to respond fully to requests.

NIH, CDC, ACF, and FDA handle exceptionally sensitive information. For example, the Office of Refugee Resettlement (ORR), within ACF, holds extensive documentation on unaccompanied

[1] *See* Ben Johansen, *Kennedy Shutters Several FOIA Offices at HHS*, Politico (Apr. 3, 2025) https://www.politico.com/news/2025/04/03/kennedy-shutters-several-foia-offices-at-hhs-00268646; Reshma Ramachandran, *The Sudden Dismissal of Public Records Staff at Health Agencies Threatens Government Accountability*, The Conversation (Apr. 16, 2025) https://theconversation.com/the-sudden-dismissal-of-public-records-staff-at-health-agencies-threatens-government-accountability-254024.

[2] Rachana Padhan, *In Reversal, FDA Rehires Staff Tasked With Releasing Public Records* (May 2, 2025) https://kffhealthnews.org/news/article/fda-rehires-foia-staff-public-records-requests-layoffs-trump-hhs/.

children and their sponsors, including PII like health records, biometric identifiers, legal documents, and tax returns. In a different vein, pharmaceutical and medical device companies submit extensive proprietary information to the FDA for its reviews, approvals, licensing, and post-approval surveillance. In either case, non-experts responding to FOIA requests jeopardizes this information. Improper release of PII would be a major privacy violation for minors and the release of a company's proprietary information would threaten American competitiveness, create significant legal and financial risks, and could create a chilling effect on innovation.

In some cases, an agency may only respond in part to a FOIA request or reject the request on the basis of statutory exemptions. The American people have the right to challenge these partial responses or rejections, just as you have done, through administrative appeals and litigation, if necessary. For the former, stripping the agency of FOIA resources hinders efficient and effective appeal resolution by experienced personnel. For the latter, the Department of Justice (DOJ) represents the agency with the subagency bearing the litigation costs. If non-experts respond to FOIA requests, this risks over-redaction and/or non-responsiveness which will increase FOIA litigation. HHS component programmatic budgets are already stretched thin and this added, unexpected cost could damage services.

I am extremely concerned about the detrimental impact that FOIA office closures will have on HHS's ability to comply with this powerful government accountability tool. Further, these FOIA office closures hamper your ability to deliver on your promise of radical transparency to the American people. Please provide a response to the following questions and the relevant supporting materials no later than May 22, 2025:

1. Please provide what plans, if any, HHS has in place for ensuring that the agency will continue to meet its FOIA obligations in a comprehensive, accurate, and timely manner to ensure that the Trump Administration is operating in a responsive and transparent way to the American people.

2. When personnel without specific expertise are fulfilling FOIA requests, how will HHS ensure that documents are not overly redacted, infringing on requesters' right to information?

3. When personnel without specific expertise are fulfilling FOIA requests, how will HHS ensure that PII, especially minors' PII and health records, is protected?

4. When personnel without specific expertise are fulfilling FOIA requests, how will HHS ensure that companies' proprietary information is protected?

    a. What specific plans, if any, does HHS have in place for protecting proprietary information submitted to the FDA by companies during reviews, approvals, licensing, and post-approval surveillance of biologics including vaccines, medical devices, drugs, pharmaceutical products, and other products in its jurisdiction?

5. When personnel without specific expertise are fulfilling FOIA requests, in the event that HHS improperly discloses proprietary information submitted to the FDA related to biologics including vaccines, medical devices, drugs, pharmaceutical products, and other products in its jurisdiction, how will HHS assure industry competitiveness is maintained and protected?

6. Please detail which FDA Centers have had FOIA personnel reinstated, the events that led up to these decisions, and how reinstated FOIA staff numbers compare to FOIA staff numbers pre-January 20, 2025.

7. Have you, or anyone at your direction, been involved in conversations related to prioritizing or deprioritizing certain organizations' FOIA requests?

8. Have you, or anyone at your direction, been involved in conversations related to the inclusion or exclusion of certain information in FOIA responses?

9. Since assuming your role, have you, or anyone at your direction, been involved in any conversations related to FOIA and any of the topics listed below? If yes, when did these conversation(s) take place, what topic(s) were discussed in these conversation(s), who was involved in the conversation(s), what was the nature of the conversation(s), and what was the outcome of the conversation(s)?

    a. Vaccines.
    b. Autism Spectrum Disorders.
    c. COVID-19.
    d. Semaglutide.
    e. Psychiatric medications.
    f. Depressive disorder.
    g. Measles.
    h. Poliomyelitis.
    i. Human Papillomavirus.
    j. Children's Health Defense.
    k. Informed Consent Action Network.
    l. Department of Government Efficiency (DOGE).

10. At an April 22, 2025 press conference, you said you are "restoring all the FOIA offices" and that you will "make it much easier for people to get the information." What does "restoring all the FOIA offices" mean?

    a. Will you be reinstating all former staff at the NIH, CDC, ACF, and FDA FOIA offices?
    b. What is the timeline for such restorations?

11. At an April 22, 2025 press conference, you said you would be standing-up a website "with all former FOIA requests and the documents that were produced, so that people don't have to do it again and again." Please provide a detailed plan for how the Administration plans to stand-up this website.

    a. What is the timeline for this website's creation?
    b. Will documents posted on this website be redacted?
    c. Will documents posted on this website reveal FOIA requesters' identities?
    d. Will there be a centralized entity that reviews documents prior to their posting to this website? If so, who?
    e. Is HHS contracting with any outside entities to stand-up this website? If so, who?

12. Has HHS experienced an increase in FOIA requests since January 20, 2025? Please provide an answer for HHS overall and for each of the HHS components listed below. For the FDA, break reporting out by Center, as well.

    a. ACF.
    b. Administration for Community Living (ACL).
    c. CDC.
    d. Centers for Medicare & Medicaid Services (CMS).
    e. FDA.
    f. Health Resources and Services Administration (HRSA).
    g. Indian Health Service (IHS).
    h. NIH.
    i. Office of Inspector General (OIG).
    j. OS.
    k. Substance Abuse and Mental Health Services Administration (SAMHSA).

13. Please name the top ten FOIA requestors by record filing volume at HHS overall and at each of the HHS components listed below since January 20, 2025. For the FDA, break reporting out by Center, as well.

    a. ACF.
    b. ACL.
    c. CDC.
    d. CMS.
    e. FDA.
    f. HRSA.
    g. IHS.
    h. NIH.
    i. OIG.
    j. OS.

k. SAMHSA.

14. Many agencies, including HHS, employ a "first in, first out" approach to respond to FOIA requests, meaning such agencies respond to FOIA requests in order of receipt. Have there been any instances since January 20, 2025 where HHS has deviated from this practice? Please provide an answer for HHS overall and for each of the HHS components listed below. For the FDA, break reporting out by Center, as well. If there have been any instances where FOIA response practices have deviated, please describe the type of information that was being requested, by whom, who made the choice to process the request differently, and the rationale that was given for doing so.

    i. ACF.
    ii. ACL.
    iii. CDC.
    iv. CMS.
    v. FDA.
    vi. HRSA.
    vii. IHS.
    viii. NIH.
    ix. OIG.
    x. OS.
    xi. SAMHSA.

15. As you know, in some instances FOIA requests proceed to litigation. These civil suits are costly and time intensive. With the closure of the FOIA offices at multiple HHS subagencies, what impact does HHS foresee this having on the agency's FOIA litigation costs? Please produce any modeling, budgeting, or budget projections HHS has done to date on this.

    a. In the likely event that FOIA litigation increases substantially and these additional costs strain tight programmatic budgets, how will HHS ensure that programs and services to the American people proceed uninterrupted and without an impact on quality of services or care?

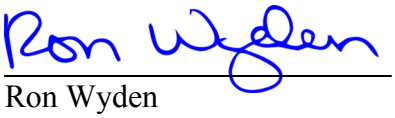
16. What communication, if any, has HHS had with the Department of Justice related to appropriate resource allocation, including staff, in anticipation of increased FOIA litigation in the future stemming from FOIA office closures?

17. According to reporting, artificial intelligence (AI) agents may submit thousands of record requests to agencies, overwhelming systems and FOIA office staff. With the closure of FOIA offices at multiple HHS subagencies, how will FOIA office staff handle these barrages?

18. Which officials at HHS were involved in these FOIA office staffing reduction decisions and what planning, if any, was undertaken prior to these reductions? Please describe the events that unfolded and name each office that was involved in the decision. Further, please name the official(s) who approved the FOIA office staffing reductions as well as specifically indicate if any of the below individuals, or direct reports to these individuals, were involved in the decision-making. Name any such direct reports.

    a. Secretary Kennedy, HHS.
    b. Heather Flick Melanson, Chief of Staff, HHS.
    c. Stefanie Spear, Principal Deputy Chief of Staff and Senior Counselor to the Secretary, HHS.
    d. Sean R. Keveny, Acting General Counsel, HHS.
    e. Elon Musk, Special Government Employee, DOGE.
    f. Amy Gleason, Acting Administrator, DOGE.

Sincerely,



Ron Wyden
United States Senator
Ranking Member, Committee
on Finance