

November 21, 2024

Robin Carnahan
General Services Administration
1800 F Street, NW
Washington, D.C. 20405

Dear Administrator Carnahan:

President-elect Donald Trump is undermining his own ability to effectively manage national security emergencies, urgent public health and safety threats, and corruption risks as he prepares to take office in January. The Trump Vance 2025 Transition has refused to sign memoranda of understanding (MOUs) with the outgoing Biden-Harris Administration.¹ These are normally mundane agreements that, since their creation, no prior president-elect has refused to sign.² All Americans share an interest in presidential administrations being prepared to handle the basic governance of executive branch agencies, public health and safety threats, and national security emergencies. The Trump team's unprecedented refusal to sign agreements with the outgoing administration threatens the American public by hamstringing incoming officials' ability to govern responsibly. The Trump Transition has also refused to publish an ethics plan, increasing the risk of the incoming administration governing for the benefit of special interests rather than the American public.

Under the Presidential Transition Enhancement Act, presidential candidates are "required to develop and publicly release ethics plans for their transition teams prior to the election" — as the relevant Senate committee explained when advancing the bill.³ Former President Trump himself signed that requirement into law in March 2020.⁴ That bipartisan bill, led by Senator Ron Johnson,

¹ Washington Post, "Trump ignores transition rules. It's a 'hostile takeover,' ally says.," Lisa Rein, Aaron C. Davis and Josh Dawsey, November 19, 2024, <https://www.washingtonpost.com/politics/2024/11/19/trump-transition-fbi-state-gsa/>.

² Washington Post, "The orderly transition of power hits a snag," Theodoric Meyer, Leigh Ann Caldwell, and Alec Dent, November 13, 2024, <https://www.washingtonpost.com/politics/2024/11/13/orderly-transition-power-hits-snag/>; Washington Post, Bonnie Berkowitz, "Laws and customs guide presidential transitions — but some go off the rails anyway," January, 15, 2024, <https://www.washingtonpost.com/graphics/2020/politics/abnormal-transitions-of-power-timeline/>.

³ Presidential Transition Enhancement Act of 2019, S. Rept. 116-13, <https://www.congress.gov/congressional-report/116th-congress/senate-report/13>; Presidential Transition Act, 3 USC 102 note Sec 4 as amended by the Presidential Transition Enhancement Act, S. 394..

⁴ Center for Presidential Transition, "President Trump signs S. 394, the Presidential Transition Enhancement Act, into law," March 4, 2020, <https://presidentialtransition.org/reports-publications/president-trump-signs-s-364-the-presidential-transition-enhancement-act-into-law/>.

was uncontroversial and passed Congress with overwhelming support.⁵ The bill adopted much of my Transition Team Ethics Improvement Act,⁶ which was developed in response to the Government Accountability Office’s 2017 findings that the first Trump Transition had ignored ethics standards.⁷

The Trump Transition’s ethics plan should have been published on the General Services Administration’s (GSA) website by October 1, 2024.⁸ Then-candidate Trump ignored that deadline and now — 16 days since the election — still has yet to publish the full plan.⁹ Among other things, the ethics plan must describe how the president-elect will “address his or her own conflicts of interest during a Presidential term.”¹⁰ The Trump Transition has prepared an ethics code,¹¹ but it includes nothing about how President-elect Trump will manage his own extensive financial conflicts of interest — which experts anticipate will be one of the most alarming corruption challenges of the incoming administration.¹² Without that plan, the public has no assurance that Trump intends to mitigate his conflicts of interest.

Furthermore, to ensure an orderly transfer of power, the Presidential Transition Act directs the outgoing administration to pursue MOUs with presidential transition teams.¹³ By September 1, 2024, the Trump Transition should have entered an MOU with the GSA regarding the provision of administrative support services.¹⁴ And by October 1, the Trump Transition should have entered an MOU with the White House regarding access to federal employees, facilities, and documents.¹⁵ The Trump Transition has said it has “an intent” to sign those MOUs, but thus far has refused to

⁵ Yahoo News, “How a bill co-sponsored by Elizabeth Warren and signed by Trump could reshape the next presidential transition,” Alexander Nazaryan, March 21, 2020, <https://www.yahoo.com/news/how-a-bill-cosponsored-by-elizabeth-warren-and-signed-by-trump-could-reshape-the-next-presidential-transition-090029518.html>.

⁶ S. 394, Presidential Transition Enhancement Act of 2019, <https://www.congress.gov/bill/116th-congress/senate-bill/394/text>; S. 232, Transition Team Ethics Improvement Act, <https://www.congress.gov/bill/115th-congress/senate-bill/2321/cosponsors>.

⁷ Letter from Government Accountability Office to Ranking Member Elijah E. Cummings, Senator Thomas R. Carper, and Senator Elizabeth Warren on Presidential Transition: Information on Ethics, Funding, and Agency Services, September 7, 2017, <https://www.gao.gov/assets/gao-17-615r.pdf>; House Democratic Committee on Oversight and Accountability, “Warren, Carper, Cummings Introduce Transition Team Ethics Improvement Act,” press release, January 18, 2018, <https://oversightdemocrats.house.gov/news/press-releases/warren-carper-cummings-introduce-transition-team-ethics-improvement-act>.

⁸ 3 USC 102 note Sec 4(g)(3)(C).

⁹ U.S. General Services Administration, “Presidential Transition Directory,” October 11, 2024, <https://www.gsa.gov/governmentwide-initiatives/presidential-transition-2024/memoranda-reports-and-key-documents> (showing the GSA website only lists the Harris-Walz ethics plan).

¹⁰ 3 USC 102 note Sec 4(g)(3)(III).

¹¹ Trump Vance 2025 Transition, Inc., “Code of Ethical Conduct,” <https://static01.nyt.com/newsgraphics/documenttools/217e53b5af610019/a1ad8a5d-full.pdf>.

¹² New York Times, “Trump Holds Up Transition Process Over Ethics Code,” Ken Bensinger, November 9, 2024, <https://www.nytimes.com/2024/11/09/us/politics/donald-trump-ethics-transition.html?smid=nytcore-ios-share&referringSource=articleShare>; Campaign Legal Center, “Trump Is Stalling His Presidential Transition With an Unprecedented Ethics Stalemate,” Delaney Marsco and Maha Quadri, November 15, 2024, <https://campaignlegal.org/update/trump-stalling-his-presidential-transition-unprecedented-ethics-stalemate>.

¹³ Center for Presidential Transition, “Presidential Transition Act Summary,” March 13, 2024, <https://presidentialtransition.org/reports-publications/presidential-transition-act-summary/>.

¹⁴ 3 USC 102 note Sec 3(i)(1).

¹⁵ 3 USC 102 note Sec 4(g)(1).

sign either one,¹⁶ and the Transition’s leadership has asserted that the agreements are “not important issues.”¹⁷ The Transition has also not entered an MOU with the Department of Justice to allow the Federal Bureau of Investigations (FBI) to conduct background checks of nominees, nor has it sent the FBI the names of prospective national security personnel — though the law instructs that the Transition should do so “as soon as possible” after the election.¹⁸

By refusing to cooperate with the outgoing administration, the Trump Transition cannot adequately prepare to govern responsibly.¹⁹ As a practical matter, without the MOUs, the Trump team will be delayed in accessing vital national security information and briefings with national security personnel.²⁰ The Transition will also be delayed in entering federal agencies and accessing secure IT infrastructure to communicate with agencies.²¹ And the FBI cannot begin critical background checks of candidates for high-level national security roles.²² Furthermore, without the MOU with GSA, the Transition remains unbound by donor contribution limits and disclosure requirements, and is relying on private donors rather than federal funds — opening Trump’s team to financial corruption with no public transparency even before he takes office.²³

In effect, President-elect Trump is undermining his administration’s ability to manage urgent national security threats, health and safety threats, and serious conflicts of interest starting on day one of his presidency.²⁴ This failure undercuts the fundamental purpose of presidential transition laws, which aim to ensure that the President-elect and the Vice-President-elect can “prepare for the assumption of their official duties as President and Vice President.”²⁵ Congress has stressed that, “with [a] transfer of power comes potential vulnerability. If the new President and the new

¹⁶ New York Times, “Trump Holds Up Transition Process Over Ethics Code,” Ken Bensinger, November 9, 2024, <https://www.nytimes.com/2024/11/09/us/politics/donald-trump-ethics-transition.html?smid=nytcore-ios-share&referringSource=articleShare>.

¹⁷ National Public Radio, “The transition to the Trump administration is underway. But it's already behind,” Tamara Keith, November 9, 2024, <https://www.npr.org/2024/11/08/nx-s1-5111947/trump-transition>.

¹⁸ 3 USC 102 note Sec 3(f).

¹⁹ Letter from House Committee on Oversight and Accountability to President-Elect Donald J. Trump and Vice President-Elect J.D. Vance regarding the Pre-Election Presidential Act, October 23, 2024, <https://oversightdemocrats.house.gov/sites/evo-subsites/democrats-oversight.house.gov/files/evo-media-document/2024-10-23.JBR%20to%20Trump%20and%20Vance%20re%20transition%20MOUs.pdf>.

²⁰ Associated Press News, “Trump’s shunning of transition planning may have severe consequences, governance group says,” Zeke Miller and Will Weissert, November 8, 2024, <https://apnews.com/article/trump-transition-planning-ca3a6be50d147b04b6498184e5599b1e>; Axios, “Trump blows through transition deadlines, sparking security concerns,” Avery Lotz, November 16, 2024, <https://www.axios.com/2024/11/14/trump-transition-delays-national-security-risks>.

²¹ Axios, “Trump blows through transition deadlines, sparking security concerns,” Avery Lotz, November 16, 2024, <https://www.axios.com/2024/11/14/trump-transition-delays-national-security-risks>; Washington Post, “Trump ignores transition rules. It’s a ‘hostile takeover,’ ally says.,” Lisa Rein, Aaron C. Davis and Josh Dawsey, November 19, 2024, <https://www.washingtonpost.com/politics/2024/11/19/trump-transition-fbi-state-gsa/>.

²² Axios, “Trump blows through transition deadlines, sparking security concerns,” Avery Lotz, November 16, 2024, <https://www.axios.com/2024/11/14/trump-transition-delays-national-security-risks>.

²³ 3 USC 102 note Sec 6(c).

²⁴ New York Times, “Trump Holds Up Transition Process Over Ethics Code,” Ken Bensinger, November 9, 2024, <https://www.nytimes.com/2024/11/09/us/politics/donald-trump-ethics-transition.html?smid=nytcore-ios-share&referringSource=articleShare>.

²⁵ Presidential Transition Enhancement Act of 2019, S. Rept. 116-13, <https://www.congress.gov/congressional-report/116th-congress/senate-report/13>.

Administration are not ready to govern on their first day in office, our nation’s adversaries may well see and take advantage of the situation.”²⁶

This risk is not hypothetical. For example, the 9/11 Commission found that the delayed transition following the contested 2000 election hampered the preparations of President George W. Bush’s national security team and may have contributed to the 9/11 attack.²⁷ Meanwhile, close coordination between the Bush administration and the incoming Obama administration helped their national security teams “to ensure the safety” of Obama’s 2009 inauguration from a possible terrorist attack.²⁸ Already, this incoming presidential administration has only 77 days between the election and inauguration to “prepare to manage the federal government, an entity with more than 4 million civilian employees and military personnel, and a budget of nearly \$4 trillion.”²⁹ By refusing to sign the MOUs, the Trump Transition will be less prepared to govern on day one, compromising Americans’ security.

This is uncharted territory. Since the Presidential Transition Act’s MOU provisions were enacted, never has an incoming administration refused to sign agreements with the outgoing administration. To help Congress understand the implications of the Trump Transition’s unprecedented refusal, and how presidential transition laws may need to be strengthened, I request responses to the following questions by December 5, 2024:

1. What specific expectations does the Presidential Transition Act set for the Trump Transition as it prepares for the transfer of power on January 20, 2025?
 - a. What is the Transition team’s compliance status with regard to each of these expectations?
2. How, if at all, is the GSA currently engaging with the Trump Transition?
 - a. Have GSA officials discussed these matters with the Trump Transition team? What was the nature of these discussions?
3. What are the impacts of the Trump Transition’s lack of compliance with the Presidential Transition Act?

²⁶ Pre-Election Presidential Transition Act of 2010, S. Rept. 111-239, <https://www.congress.gov/congressional-report/111th-congress/senate-report/239/1>.

²⁷ National Commission on Terrorist Attacks Upon the United States, “The 9/11 Commission Report,” p. 198, 422, <https://9-11commission.gov/report/911Report.pdf>; CNN, “How Trump’s transition of power delay threatens national security and public safety,” Zachary B. Wolf, November 10, 2020, <https://www.cnn.com/2020/11/10/politics/trump-biden-transition-of-power-delay/index.html>.

²⁸ Center for Presidential Transition, “Presidential Transitions are a Perilous Moment for National Security,” August 16, 2023, <https://presidentialtransition.org/reports-publications/presidential-transitions-are-a-perilous-moment-for-national-security/>.

²⁹ Letter from Government Accountability Office to Ranking Member Elijah E. Cummings, Senator Thomas R. Carper, and Senator Elizabeth Warren on Presidential Transition: Information on Ethics, Funding, and Agency Services, September 7, 2017, <https://www.gao.gov/assets/gao-17-615r.pdf>.

- a. How has this noncompliance affected the GSA's ability to carry out its responsibilities to date?

Thank you for your attention to this important matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Elizabeth Warren", written over a horizontal line.

Elizabeth Warren
United States Senator