

VIA EMAIL

January 28, 2025

Camille Aponte-Rossini
FOIA Public Liaison
U.S. Office of Personnel Management
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Freedom of Information Act Request

Dear Camille Aponte-Rossini:

This letter constitutes a request under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and is submitted on behalf of the Electronic Privacy Information Center (“EPIC”) to the Office of Personnel Management (“OPM”).

EPIC seeks documents related to OPM’s current policies regarding its personnel security, data security, and privacy practices.

Documents Requested

EPIC requests disclosure of the following documents:

1. All emails and memoranda sent by OPM’s Acting Director, Charles (“Chuck”) Ezell, or employees acting on behalf of Charles Ezell, between January 20, 2025, and January 27, 2025.
2. All emails sent to OPM’s former Chief Information Officer Melvin Brown between January 14, 2022, and January 21, 2022.

Please include all metadata (e.g., full email headers as received or sent) and attachments, without alteration other than electronic redaction of specifically claimed exemptions that do not affect any part of the non-exempt information.

Background

On January 27, 2025, an anonymous OPM employee alleged that OPM leadership, through Charles Ezell, was sending broad requests to federal agencies for information on federal government employees. According to these allegations, agencies were directed to send employee information to a privately employed individual who does not have the proper security clearance.

This allegation raises serious questions about OPM’s personnel security practices, data security practices, and policies toward the privacy of federal employees.

Request for Waiver of Fees

EPIC is a “representative of the news media” for fee classification purposes. *EPIC v. DOD*, 241 F. Supp. 2d 5 (D.D.C. 2003). Based on EPIC’s status as a “news media” requester, EPIC is entitled to receive the requested record with only duplication fees assessed. 5 U.S.C. § 552(a)(4)(A)(ii)(II); 5 C.F.R. § 294.109(c). Any further fees should be waived because the disclosure of the documents requested are in the public interest, “likely to contribute significantly to public understanding of the operations or activities of the Government,” and not in the commercial interest of EPIC, the requester. 5 C.F.R. § 294.109(f).

First, the documents requested are in the public interest. *Id.* As discussed above, the government is alleged to request federal agencies send employee information to an individual who is outside of the government. According to the allegations, this person has not received the proper security clearances normally required by OPM. This raises serious questions as to OPM’s practices for personnel security, data sharing, and data security. Further, federal government is allegedly broadly collecting information on federal employees, raising questions regarding the privacy of these employees. The public has an interest in learning about OPM’s up-to-date policies regarding privacy and security.

Second, the documents requested are “likely to contribute significantly to public understanding of the operations and activities of the Government.” *Id.* The privacy and data security of nearly 4.5 million federal workers¹ could be implicated in OPM’s alleged requests sent by Charles Ezell. This request seeks emails and memoranda sent or received by two federal employees who are directly connected to the Federal Government’s alleged activities—OPM’s Acting Director, Charles Ezell, and its former Chief Information Officer, Melvin Brown. These records will give the public significant insight into OPM’s activities and data privacy and security procedures related to a massive workforce. Therefore, disclosure of these documents will give the public significant understanding into the activities of the Government and the federal workforce. 5 C.F.R. § 294.109(f).

Third, the documents requested are not in EPIC’s commercial interest. EPIC is a non-profit organization committed to privacy, open government, and civil liberties.² As a non-profit research organization, EPIC has no commercial interest in the requested information. Therefore, as demonstrated above, EPIC is a news media requester and satisfies the public interest standard under 5 C.F.R. § 294.109(f).

For these reasons, a fee waiver should be granted.

¹ U.S. Office of Personnel Management, *Federal Civilian Employment*, OPM.gov (Sept. 2017), <https://www.opm.gov/policy-data-oversight/data-analysis-documentation/federal-employment-reports/reports-publications/federal-civilian-employment/>.

² See EPIC, *About EPIC*, EPIC.org, <https://epic.org/epic.about.html> (last visited Jan. 28, 2025).

Request for Expedited Processing

EPIC is entitled to expedited processing of this request under the FOIA and OPM's public FOIA guidance. 5 U.S.C. § 552(a)(6)(E)(v)(II); *Freedom of Information Act: Reference Guides*, OPM.gov, <https://www.opm.gov/information-management/freedom-of-information-act/#url=Guides> (last visited Jan. 27, 2025).

First, EPIC is entitled to expedited processing of its request because it is primarily engaged in disseminating information to the public. Again, EPIC is a nonprofit research center and news media representative. EPIC routinely publishes reports³ and helpful blog posts⁴ concerning privacy and civil liberties issues. As such, EPIC is primarily engaged in disseminating information to the public.

Second, the documents requested are urgently needed to inform the public concerning actual or alleged Federal Government activity. As discussed in the Background section above, OPM's leadership is allegedly engaged in monitoring and collecting information on federal employees, potentially in violation of the employee's privacy. The documents requested will inform the public on the Federal Government's alleged activity.

Conclusion

Thank you for your consideration of this request. EPIC anticipates your response to its request within ten (10) calendar days. 28 C.F.R. § 16.5(e)(4). For questions regarding this request, please contact Abigail Kunkler, kunkler@epic.org, cc: foia@epic.org.

Respectfully submitted,

/s Abigail Kunkler
Abigail Kunkler
EPIC Law Fellow

³ See, e.g., EPIC, *Generating Harms*, EPIC.org, <https://epic.org/generating-harms/> (last visited Jan. 28, 2025).

⁴ EPIC, *Analysis*, EPIC.org, <https://epic.org/analysis/> (last visited Jan. 28, 2025).