



March 13, 2025

Mitch Behm, Acting Inspector General
Department of Transportation Office of the Inspector General
1200 New Jersey Ave SE, 7th Floor
Washington, DC 20590

Sent via email (hotline@oig.dot.gov)

Dear Acting Inspector General Behm:

Campaign Legal Center writes to request that the Office of the Inspector General (“OIG”) investigate whether the Federal Aviation Administration’s (“FAA”) business transactions with Elon Musk’s satellite internet company are improper due to violations of the criminal conflict of interest law, 18 U.S.C. § 208. Specifically, public reports establish that the FAA began using Starlink services and considering contracts with the company in response to Musk’s requests, who is a special government employee (“SGE”) and the CEO of Starlink.¹ Multiple FAA officials, including the Department of Transportation Secretary and one of the Department’s lead engineers, publicly stated that Musk is the source of the directives for the FAA to implement Starlink technology.² If Musk participated in or directed discussions with FAA employees concerning business transactions with

¹ Musk is the CEO of SpaceX. Tesla, *Biography of Elon Musk*, <https://www.tesla.com/elon-musk> (last visited Mar. 12, 2025). Starlink is a wholly owned subsidiary of that company. See Starlink Services LLC Application for ETC Designation, <https://www.fcc.gov/ecfs/document/1020316268311/1>.

² See Ian Duncan, Hannah Natanson, Lori Aratani and Faiz Siddiqui, *FAA targeting Verizon contract in favor of Musk’s Starlink, sources say*, Wash. Post (Feb. 26, 2025), <https://www.washingtonpost.com/business/2025/02/26/musk-starlink-doge-faa-verizon/>; Jason Leopold, Allyson Versprille, and Kelcee Griffis, *How Elon Musk Muscled His Way Into the FAA*, Bloomberg (Mar. 5, 2025), <https://www.bloomberg.com/news/features/2025-03-05/after-elon-musk-lands-at-faa-his-starlink-business-stands-to-gain-business?embedded-checkout=true>; Kevin Breuninger, *Musk’s pivot to U.S. airspace reform raises new conflict-of-interest concerns*, CNBC (Feb. 6, 2025), <https://www.cnbc.com/2025/02/06/elon-musk-airspace-reform-conflict-senate-cantwell-duffy.html> [<https://perma.cc/PX99-5UZ6>].

Starlink, he may have violated the criminal conflict of interest law and corrupted FAA's business relationship with Starlink.

For over 60 years, federal law has banned executive branch employees, including SGEs, from participating in business transactions where they may receive a financial benefit.³ Courts have found that this law is intended to protect public trust in government because when an executive branch employee profits from a government contract, the contract is tainted and it diminishes confidence in government.⁴ OIG is responsible for investigating ethics issues connected to FAA's business partners, and its stated priorities include "fraud schemes that significantly impact DOT funds [and] employee integrity violations."⁵

Accordingly, the evidence suggesting that Musk has blatantly and improperly influenced the FAA's decision to work with Starlink warrants a thorough OIG fact finding. The public has a right to know that their tax dollars are being spent in the public's best interest and not to benefit a government employee's financial interests. OIG should investigate the FAA's recent decision to use Starlink and Musk's conduct to determine whether a criminal violation occurred.⁶

Federal Criminal Law Prohibits Special Government Employees from Influencing an Agency's Business Transactions Involving their Financial Interests

Pursuant to the federal criminal conflicts of interest law, "an officer or employee of the executive branch of the United States Government . . . including a special Government employee," shall not participate "personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a . . . contract . . . or other particular matter in which, to his knowledge, he . . . has a financial interest."⁷

Courts have established that "[t]here are four elements of the crime set out in 18 U.S.C. § 208(a): (1) 'an officer or employee of the executive branch of the United

³ 18 U.S.C. § 208.

⁴ See, e.g., *K & R Eng'g Co. v. United States*, 616 F.2d 469, 475 (Ct. Cl. 1980) ("As Mississippi Valley makes clear, it is the potential for injuring the public interest created by a conflict of interest that requires invalidation of the tainted contract. It therefore is immaterial whether the particular taint has or has not in fact caused the government any financial loss or damages. What the statute condemns is the inevitable taint of the contract itself that results when it is the product of a conflict of interest.").

⁵ *OIG Investigative Priorities*, U.S. Dep't of Transportation, <https://perma.cc/3TCS-CAMX> (last visited Mar. 12, 2025).

⁶ The Office of the Inspector General has jurisdiction to investigate "conflicts of interest and ethics violations" and "violation(s) of criminal law . . . in connection with a federal contract." *Report Fraud Hotline*, U.S. Dep't of Transportation, <https://perma.cc/LB6J-L8XU> (last visited Mar. 12, 2025).

⁷ 18 U.S.C. § 208.

States Government' (2) 'participates personally and substantially as a Government officer or employee' (3) 'in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter' (4) in which he knows he has a financial interest."⁸

Executive Branch Employee

The first element requires that the person involved is an executive branch employee. An executive branch employee subject to the law includes any "officer or employee of the executive branch of the United States Government, or of any independent agency of the United States, a Federal Reserve bank director, officer, or employee, or an officer or employee of the District of Columbia, **including a special Government employee.**"⁹

Personally and Substantially Participates

Second, the executive branch employee must participate personally and substantially in the relevant matter. The executive branch employee is deemed to have participated "personally" and "substantially" in a matter if the employee is directly involved. Specifically, such participation includes:

the direct and active supervision of the participation of a subordinate in the matter. To participate "substantially" means that the employee's involvement is of significance to the matter. Participation may be substantial even though it is not determinative of the outcome of a particular matter.¹⁰

The regulation clarifies that an employee is not deemed to have participated personally merely because a matter occurs within an agency or an agency component that is under the employee's official responsibility.¹¹ The employee must get involved in the matter to have participated. However, participation is not limited to making a final decision. The statute expressly includes participation "through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise."¹²

In the case of government contracts, the participation of the employee in stages prior to the final execution of a contract can trigger a Section 208 violation. Multiple federal circuits have held that Section 208 "proscribe[s] rather broadly employee participation in business transactions involving conflicts of interest" and

⁸ *United States v. Stadd*, 636 F.3d 630, 636 (D.C. Cir. 2011) (quoting 18 U.S.C. § 208(a)).

⁹ 18 U.S.C. § 208(a) (emphasis added).

¹⁰ 5 C.F.R. § 2640.103(a)(2).

¹¹ *Id.*

¹² 18 U.S.C. § 208(a).

was designed “to reach activities at various stages of these transactions . . . [The scope of 18 U.S.C. § 208 includes] acts which [lead] up to the formation of the contract as well as those . . . which might be performed in the execution of the contract.”¹³ A Section 208 violation will be found where there is participation in “any type of action taken to execute or carry to completion a contract.”¹⁴

Particular Matter

For the third element of the offense, the statute requires the participation to be in a particular matter, which include: “a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter.”¹⁵

The term “particular matter” means a matter that “involve[s] deliberation, decision, or action” focused on the interests of either (a) identified parties or (b) a “discrete and identifiable class of persons.”¹⁶ A particular matter focused on the interest of specific parties for purposes of the statute “typically involves a specific proceeding affecting the legal rights of the parties, or an isolatable transaction or related set of transactions between identified parties.”¹⁷ The Office of Government Ethics has said that, “[e]xamples of particular matters involving specific parties include contracts, grants, licenses, product approval applications, investigations, and litigation.”¹⁸

Financial Interest

Finally, the law applies if the particular matter directly and predictably affects the employee’s financial interests, even if the employee’s own actions do not affect them. The phrase “direct and predictable” does not appear in the statute, but the executive branch has taken the position that an employee has a financial interest in a particular matter only if the particular matter will affect that financial interest directly and predictably.¹⁹ The regulations provide that:

- (i) A particular matter will have a “direct” effect on a financial interest if there is a close causal link between any decision or action to be taken in the matter and any expected effect of the matter on the financial interest. An effect may be direct even though it does not occur immediately. A particular matter will not have a direct effect on a financial interest,

¹³ *United States v. Selby*, 557 F.3d 968, 972 (9th Cir. 2009) (quoting *United States v. Irons*, 640 F.2d 872 (7th Cir. 1981)) (alterations in original).

¹⁴ *United States v. Jewell*, 827 F.2d 586, 587 (9th Cir. 1987).

¹⁵ 18 U.S.C. § 208(a).

¹⁶ 5 C.F.R. § 2640.103(a)(1).

¹⁷ 5 C.F.R. § 2640.102(l).

¹⁸ Office of Gov’t Ethics Advisory Op. DO-06-029 (2006).

¹⁹ 5 C.F.R. § 2640.103(a)(3).

however, if the chain of causation is attenuated or is contingent upon the occurrence of events that are speculative or that are independent of, and unrelated to, the matter. A particular matter that has an effect on a financial interest only as a consequence of its effects on the general economy does not have a direct effect within the meaning of this part. (ii) A particular matter will have a “predictable” effect if there is a real, as opposed to a speculative, possibility that the matter will affect the financial interest. It is not necessary, however, that the magnitude of the gain or loss be known, and the dollar amount of the gain or loss is immaterial.²⁰

The phrase “direct and predictable effect” extends to the effect of any part of the particular matter, even a part in which the employee did not participate. The plain language of the statute makes clear that the prohibition applies when the employee has a financial interest in the particular matter itself.²¹

An employee has a financial interest if there is a realistic, as opposed to speculative, potential for gain or loss. “Gain or loss need not be probable for the prohibition against official action to apply. All that is required is that there be a real, as opposed to a speculative, possibility of benefit or detriment.”²² A financial interest includes that of “an organization . . . [in] which the employee serves as [an] officer, director, trustee, general partner, or employee.”²³

In sum, Section 208 broadly covers executive branch employees who are involved in decision-making related to contracts or similar particular matters where the employee could directly profit.

Musk’s Public Statements Indicate that He Influenced the FAA’s Decision to Seek Services from His Company

The FAA began using Starlink services soon after the company’s owner, Elon Musk, criticized their existing contractor. There is substantial reason to believe the role of Musk in the FAA’s decision establishes the four elements of a Section 208 violation.

A. Musk is a Special Government Employee Subject to the Conflict of Interest Law

Musk is an SGE and is accordingly subject to the conflict of interest prohibition. Moreover, Musk is an SGE with significant authority over the

²⁰ *Id.*

²¹ 18 U.S.C. § 208(a) (prohibition applies to a “particular matter” in which an employee has “financial interest”).

²² *United States v. Gorman*, 807 F.2d 1299, 1303 (6th Cir. 1986) (citing Office of Gov’t Ethics Advisory Op., 83 OGE 1 (1983)).

²³ 5 C.F.R. § 2635.402(b)(2)(iv).

operations of the FAA and other agencies as the head of the so called “Department of Government Efficiency” (“DOGE”). Each agency head is responsible for “establish[ing] within their respective agencies a DOGE Team of at least four employees.”²⁴ These teams are selected by the agency heads “in consultation with the [DOGE] Administrator.”²⁵

A White House spokesperson confirmed that, “Elon Musk is a special government employee” who is “overseeing DOGE.”²⁶ At the FAA, Musk’s DOGE employees allegedly tried to fire air traffic controllers who Musk claimed were hired under diversity initiatives that have been disavowed by the Trump Administration.²⁷ Many FAA employees, including as many as 12 percent of the country’s aeronautical-information specialists, have been terminated or have taken the DOGE-directed government-wide buyout.²⁸ Therefore, despite the temporary nature of Musk’s SGE position, he serves a critical role in the policy and personnel decisions of the FAA.

B. Musk Personally and Substantially Participated in Decisions Related to Starlink’s Business Transactions with the FAA

Beginning in February 2025, Musk became involved with advocating for the FAA to use Starlink’s services.

On February 5, 2025, Musk publicly stated that “[w]ith the support of President @realDonaldTrump, the @DOGE team will aim to make rapid safety upgrades to the air traffic control system.”²⁹ This statement was made in the aftermath of January 29, 2025 air crash where an American Airlines airplane collided with a military helicopter in the airspace over Washington D.C.’s Reagan National Airport.³⁰ On the same day, Transportation Secretary Sean Duffy said he

²⁴ Exec. Order No. 14158, §3(c) (2025), <https://perma.cc/C4DA-J6SD>.

²⁵ *Id.*

²⁶ *White House won't name DOGE administrator amid leadership questions*, PBS NewsHour, YouTube (Feb. 25, 2025), <https://perma.cc/UQ9N-5JMZ>.

²⁷ Jonathan Swan & Maggie Haberman, *Inside the Explosive Meeting Where Trump Officials Clashed With Elon Musk*, N.Y. Times (Mar. 7, 2025), <https://www.nytimes.com/2025/03/07/us/politics/trump-musk-doge-power.html>.

²⁸ Isaac Stanley-Becker, *The FAA’s Troubles Are More Serious Than You Know*, The Atlantic (Mar. 9, 2025), <https://www.theatlantic.com/politics/archive/2025/03/faa-trump-elon-plane-crash/681975/> [https://perma.cc/PS89-4ART].

²⁹ Elon Musk (@elonmusk), X (Feb. 5, 2025, 3:15 PM), <https://perma.cc/R8R8-DH2X>.

³⁰ Jaclyn Diaz, Rachel Treisman, Scott Neuman, Russell Lewis, *What we know about the midair plane and helicopter crash near Washington, D.C.*, NPR (Jan. 30, 2025), <https://www.npr.org/2025/01/30/nx-s1-5280198/plane-crash-washington-dc-helicopter-potomac> [https://perma.cc/5DP7-HQUY].

spoke with Musk about “remak[ing] our airspace” and that DOGE was going to “help upgrade our aviation system.”³¹

On February 19, DOGE employees were deployed to the FAA.³² Around the same time, engineers from SpaceX, Musk’s company and parent company to Starlink, were liaising with the FAA to provide advice for modernizing the air traffic control system.³³

On February 24, Musk publicly stated that “[t]he Verizon system is not working and so is putting air travelers at serious risk.”³⁴ Three days later, on February 27, it was reported that the FAA was planning to cancel a \$2.4 billion contract awarded to Verizon in 2024 in favor of awarding the contract to Musk’s company, Starlink.³⁵ The contract in question relates to a communications platform for the nation’s air traffic control system.³⁶ That same day, Musk said that he was sending Starlink satellite internet terminals to the FAA.³⁷

On March 5, SpaceX confirmed that it is “working in coordination” with a major FAA telecommunications contractor, L3Harris Technologies, and the FAA to test Starlink as part of “infrastructure upgrades.”³⁸ Transportation Secretary Duffy said on Fox News that Starlink was “part of a solution” for upgrading the nation’s air traffic control systems and that the company would “play some part in [the upgrades].”³⁹

Recent reporting has identified Musk as the person directing the deployment of Starlink equipment across the FAA’s communications network.⁴⁰ Ted Malaska is

³¹ Breuninger, *supra* note 2.

³² Oriana Pawlyk and Chris Marquette, *Musk’s DOGE, SpaceX both land at FAA*, Politico (Feb. 19, 2025), <https://www.politico.com/news/2025/02/19/doge-faa-solve-challenges-email-00204962>.

³³ Kris Van Cleave & Caitlin Yilek, *After a series of plane crashes, Transportation Secretary Sean Duffy says “of course” it’s safe to fly*, CBS News (Feb. 19, 2025), <https://www.cbsnews.com/news/safe-to-fly-plane-crashes-transportation-secretary-sean-duffy/> [https://perma.cc/2NTW-WDB4].

³⁴ Elon Musk (@elonmusk), X (Feb. 24, 2025, 8:47 PM), <https://perma.cc/W4NS-6SSC>.

³⁵ Ian Duncan, et. al, *supra* note 2.

³⁶ *Id.*

³⁷ Leslie Josephs, *Elon Musk says he’s sending Starlink tech to FAA while saying, without evidence, that air safety is ‘at risk’*, CNBC (Feb. 27, 2025), <https://www.cnbc.com/2025/02/27/elon-musk-starlink-faa-safety-claims.html> [https://perma.cc/SU6X-GC99].

³⁸ Danielle Wallace, *SpaceX denies Starlink ‘take over’ of FAA contract, as Verizon \$2.4B air traffic control deal hangs in balance*, Fox Business (Mar. 6, 2025), <https://www.foxbusiness.com/politics/spacex-denies-starlink-take-over-faa-contract-verizon-air-traffic-control-deal-hangs-balance> [https://perma.cc/U8GZ-QFQ9]; SpaceX (@SpaceX), X (Mar. 5, 2025, 3:00 PM), <https://perma.cc/C3TX-2YUV>; Elon Musk (@elonmusk), X (Feb. 27, 2025, 10:09 AM), <https://perma.cc/RUC8-9UPP>; Elon Musk (@elonmusk), X (Feb. 27, 2025, 2:24 PM), <https://perma.cc/3J3W-2J97>.

³⁹ *Id.*

⁴⁰ Stanley-Becker, *supra* note 28.

a SpaceX engineer who is also an SGE leading an FAA engineering unit⁴¹ (presumably as a DOGE team member⁴²). He said the idea to set up Starlink satellite terminals to improve the air traffic control communications system came directly from Musk.⁴³ He claims to speak for Musk, even threatening to report FAA officials who impede the implementation of the Starlink technology to Musk, saying they could be terminated.⁴⁴

Based on these statements, Musk appears to have personally and substantially participated in the FAA's actions surrounding business transactions between the FAA and his companies, including the possible termination of the Verizon contract in favor of Starlink.

First, he has repeatedly participated personally in matters related to possible Starlink and SpaceX contracts with the FAA. Both the Transportation Secretary and Musk himself made public statements about his involvement in remaking the air traffic control system as part of his role as the head of DOGE. In addition, Musk's statement about Verizon's inability to meet the needs of the air travel system was released only a few days before the FAA allegedly considered reallocating the contract to Starlink. A source familiar with the matter said that while the final decisions on the Verizon contracts were to take place the following month, "Musk's team determined the job should go to Starlink."⁴⁵ FAA officials refused to authorize the switch, so apparently "Musk's team [sought] help from the acting administrator of the agency, Trump appointee Chris Rocheleau, and Duffy."⁴⁶

Second, Musk has participated substantially in the FAA's decisions regarding Starlink. Notably, Musk is indisputably the architect of DOGE's efforts across the government's federal agencies. Musk proposed the idea of DOGE to President Trump prior to his assuming office⁴⁷ and after establishing the office, President Trump told Congress and the American public that DOGE "is headed by Elon Musk."⁴⁸ Pursuant to President Trump's executive order establishing DOGE, agency

⁴¹ Leopold, et. al, *supra* note 2.

⁴² The Feed, *Elon Musk's DOGE member issues chilling threat to FAA staff on Day One, 'Obstruct me and you'll risk losing your job'*, Economic Times (Mar. 5, 2025), <https://economictimes.indiatimes.com/news/international/us/elon-musks-doge-member-issues-chilling-threat-to-faa-staff-on-day-one-obstruct-me-and-youll-risk-losing-your-job/articleshow/118762235.cms?from=mdr> [https://perma.cc/Z8L7-EUD7].

⁴³ *Id.*

⁴⁴ Leopold, et. al, *supra* note 2.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *How Musk Built DOGE: Timeline and Key Takeaways*, N.Y. Times (Feb. 28, 2025), <https://www.nytimes.com/2025/02/28/us/politics/musk-doge-timeline-takeaways.html>.

⁴⁸ Chris Megerian, *A single day of Trump and Musk's cost-cutting campaign remakes huge sections of government*, AP (Mar. 7, 2025), <https://apnews.com/article/donald-trump-elon-musk-doge-c4c8e4f4766dee7dfff4d24161e0cf3f>.

heads are essentially required to include Musk, as the leader of DOGE, in decisions involving DOGE's agenda: "Agency Heads shall ensure that DOGE Team Leads coordinate their work with [United States Digital Service] and advise their respective Agency Heads on implementing the President's DOGE Agenda."⁴⁹ Musk's prominent role leading DOGE means that any participation on his part would constitute substantial participation.⁵⁰

While there is a lack of transparency surrounding DOGE's structure, both President Trump's and Musk's repeated assertions demonstrate that Musk has significant power to make and direct DOGE's actions. Appearing alongside President Trump in the Oval Office, Musk was described as a person deputized by the president to carry out the day-to-day efforts of DOGE. President Trump said, "I'll tell [Musk] to go there, he does it. He's got a very capable group of people."⁵¹ Musk said he consults with the President before taking action, but that they "talk almost every day, and I double check things to make sure. 'Is this something, Mr. President, you want us to do this?' Then we'll do it."⁵² He has been working closely with the agencies targeted by DOGE, saying that he was working "in partnership" with agency heads.⁵³

Musk may argue that he is not personally and substantially involved because he is not Starlink's designated point of contact for contracts with the FAA. This is an explanation he provided when asked about potential conflicts of interest with his role leading DOGE. He said that he does not believe his financial interests in the contracts raise conflicts of interest concerns, "because you have to look at the individual contract and say, first of all, I'm not the one, you know, filing the contract – it's people at SpaceX."⁵⁴ This line of thinking misunderstands the required element of participation. If Musk has a financial interest in a company, it does not matter whether he participates from the private sector side – personal and substantial is assessed by an employee's involvement in their official capacity. The fact that multiple FAA employees, including a lead engineer and the head of the

⁴⁹ Exec. Order No. 14158, *supra* note 24, at §3(c).

⁵⁰ See 5 C.F.R. § 2635.402(b)(4) (2025). "Participation may be substantial even though it is not determinative of the outcome of a particular matter. However, it requires more than official responsibility, knowledge, perfunctory involvement, or involvement on an administrative or peripheral issue. A finding of substantiality should be based not only on the effort devoted to a matter, but also on the importance of the effort. While a series of peripheral involvements may be insubstantial, the single act of approving or participating in a critical step may be substantial."

⁵¹ Aimee Picchi, *Musk is not an employee of DOGE and "has no actual or formal authority," White House says*, CBS News (Feb. 18, 2025), <https://www.cbsnews.com/news/elon-musk-doge-not-employee-no-authority-white-house-says/> [https://perma.cc/K5XR-EWG7].

⁵² *Id.*

⁵³ *Id.*

⁵⁴ Rachel Scott, et.al, *Elon Musk's first 30 days: How DOGE is reshaping the federal government*, ABC News (Feb. 24, 2025), <https://abcnews.go.com/Politics/elon-musks-30-days-doge-reshaping-federal-government/story?id=119003214> [https://perma.cc/5E3T-CAQF].

Department of Transportation, have said directives to implement Starlink technology are coming from Musk,⁵⁵ establishes that Musk is personally and substantially participating in the FAA side of these contracts.

Musk may also try to argue that no specific contract has yet been awarded to Starlink. However, even if a particular contract is not given to Starlink, it is clear that Starlink is actively working to secure FAA contracts, and that Musk is likely participating in discussions on both the private and government side. Indeed, SpaceX confirmed the ongoing negotiations in a statement that “SpaceX is working with L3Harris and the FAA to identify instances where Starlink [can] serve as a long-term infrastructure upgrade for aviation safety.”⁵⁶ Whether any specific contract is finalized is irrelevant because participation includes “any type of action taken to execute or carry to completion a contract,”⁵⁷ including “acts which [lead] up to the formation of the contract,”⁵⁸ *i.e.*, deciding how to implement contracts between the FAA and Starlink.

More importantly, Musk does not have to be involved in a final decision on a contract to be deemed as participating personally. For example, if Musk was involved through a recommendation or rendering of advice regarding favoring Starlink for a contract (action which is evidenced by his communications on X), that constitutes a violation of Section 208. Musk’s personal participation includes when his team or other employees, like Ted Malaska, are responsible for executing his preferences on the matter. Personal participation “includes the direct and active supervision of the participation of a subordinate in the matter.”⁵⁹ Reporting shows that at minimum he was directly and actively supervising Malaska and his DOGE team to make Starlink contracts a reality.

C. The FAA’s Business Relationship with Starlink is a Particular Matter

A contract or similar decision involving specific parties constitutes a particular matter for the purposes of Section 208. The testing and implementation of Starlink technology in the FAA’s air traffic control systems is a “particular matter,” even where a specific contract has not been executed, because this process

⁵⁵ See *supra* note 2.

⁵⁶ Danielle Wallace, *SpaceX denies Starlink 'take over' of FAA contract, as Verizon \$2.4B air traffic control deal hangs in balance*, Fox Business (Mar. 6, 2025), <https://www.foxbusiness.com/politics/spacex-denies-starlink-take-over-faa-contract-verizon-air-traffic-control-deal-hangs-balance> [https://perma.cc/U8GZ-QFQ9].

⁵⁷ *United States v. Jewell*, 827 F.2d 586, 587 (9th Cir. 1987).

⁵⁸ *United States v. Selby*, 557 F.3d 968, 972 (9th Cir. 2009) (quoting *United States v. Irons*, 640 F.2d 872 (7th Cir.1981)).

⁵⁹ 5 C.F.R. § 2640.103(a)(2).

“involve[s] deliberation, decision, or action”⁶⁰ (whether and how to use Starlink’s technology) focused on the interests of “identified parties”⁶¹ (Starlink and the FAA). The decisions to use Starlink as a service provider and the actual implementation of its technology is “an isolatable transaction or related set of transactions between” Starlink and the FAA.⁶² Accordingly, the FAA’s business transactions with Starlink or SpaceX, as well as Musk’s efforts to influence those government transactions and the resulting contracts, implicate Section 208.

D. Musk’s Ownership of Starlink and SpaceX Constitutes a Financial Interest

Musk has a clear financial interest that is directly and predictably affected by the FAA’s business decisions involving Starlink.

First, Musk has a financial interest, and he has knowledge of that financial interest. Musk is the co-founder and CEO of Starlink and its parent company, SpaceX.⁶³ As such, both Musk’s personal private ownership of these companies and the financial interests of Starlink as a company demonstrate a conflict of interest because his participation in securing business relationships and contracts for the companies impacts both his personal wealth and the financial health of Starlink.

Second, his financial interests are directly and predictably affected by the business transaction between FAA and his companies. A direct effect on a financial interest occurs when there is a “close causal link between any decision or action to be taken in the matter and any expected effect of the matter on the financial interest.”⁶⁴ The FAA’s decision to use the services of Starlink and SpaceX is certainly going to have a direct causal effect on the companies’ finances and therefore on Musk’s financial interests.

A predictable effect on a financial interest means there must be “a real, as opposed to a speculative, possibility that the matter will affect the financial interest.”⁶⁵ A gain or loss for Musk’s companies need not actually materialize for Section 208 to apply. There only needs to be the potential for gain or loss. The award of a multibillion-dollar contract will have a real, as opposed to speculative, possibility of affecting the financial interests of Musk, Starlink, and SpaceX. Beyond the financial gain Musk and his companies stand to receive from the contract, there is also the reputational benefit of providing a critical service for the

⁶⁰ 5 C.F.R. § 2640.103(a)(1).

⁶¹ *Id.*

⁶² 5 C.F.R. § 2640.102(l).

⁶³ Tesla, *Biography of Elon Musk*, <https://www.tesla.com/elon-musk> (last visited Mar. 12, 2025).

⁶⁴ 5 C.F.R. § 2640.103(a)(3).

⁶⁵ 5 C.F.R. § 2640.103(a)(3) (2025).

U.S. government. This reputational benefit is likely to further impact Musk's financial interests.

Conclusion

Publicly available information provides extensive evidence that the FAA's business relationship with Starlink is tainted by Musk's influence. Musk is a government official with broad authority who acts with direct support from the President. With this authority and support, he has openly criticized the FAA's contractors while directing the agency to test and use his company's services. These facts establish a possible criminal conflict of interest violation, and an OIG investigation is needed to determine whether the facts constitute a legal violation.

Respectfully submitted,

_____/s/_____
Kedric L. Payne
General Counsel, Vice President, and Sr.
Director, Ethics

_____/s/_____
Delaney Marsco
Director, Ethics