

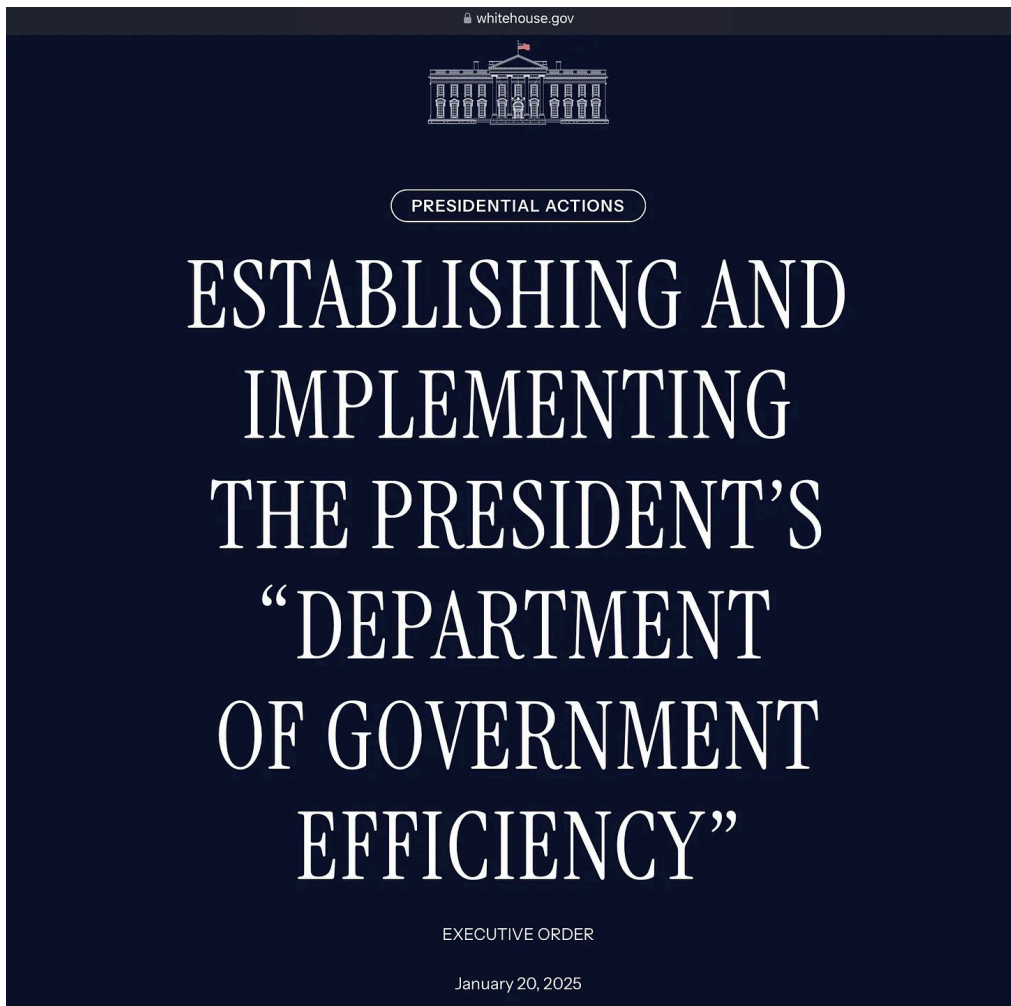
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DOGE - A Lawyer's Perspective

Tom Renz

5-6 minutes

A lot is being said about DOGE and whenever I see the mainstream organizing around a narrative I get suspicious. In light of the fact that the mainstream media is a literal extension of the swamp, and the fact that they have organized around a narrative, I decided to look into DOGE myself and see what is under the hood. While I was initially quite concerned about the legality of a “new agency” created by executive order I found that the narrative that is being promoted - just like everything else - is just another lie. The order is here:



By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

Section 1. Purpose. This Executive Order establishes the Department of Government Efficiency to implement the President's DOGE Agenda, by modernizing Federal technology and software to maximize governmental efficiency and productivity.

Sec. 2. Definitions. As used in this order:

(a) "Agency" has the meaning given to it in section 551 of title 5, United States Code, except that such term does not include the Executive Office of the President or any components thereof.

(b) "Agency Head" means the highest-ranking official of an agency, such as the Secretary, Administrator, Chairman, or Director, unless otherwise specified in this order.

Sec. 3. DOGE Structure. (a) *Reorganization and Renaming of the United States Digital Service.* The United States Digital Service is hereby publicly renamed as the United States DOGE Service (USDS) and shall be established in the Executive Office of the President.

(b) *Establishment of a Temporary Organization.* There shall be a USDS Administrator established in the Executive Office of the President who shall report to the White House Chief of Staff. There is further established within USDS, in accordance with section 3161 of title 5, United States Code, a temporary organization known as "the U.S. DOGE Service Temporary Organization". The U.S. DOGE Service Temporary Organization shall be headed by the USDS Administrator and shall be dedicated to advancing the President's 18-month DOGE agenda. The U.S. DOGE Service Temporary Organization shall terminate on July 4, 2026. The termination of the U.S. DOGE Service Temporary Organization shall not be interpreted to imply the termination, attenuation, or amendment of any other authority or provision of this order.

(c) *DOGE Teams.* In consultation with USDS, each Agency Head shall establish within their respective Agencies a DOGE Team of at least four employees, which may include Special Government Employees, hired or assigned within thirty days of the date of this Order. Agency Heads shall select the DOGE Team members in consultation with the USDS Administrator. Each DOGE Team will typically include one DOGE Team Lead, one engineer, one human resources specialist, and one attorney. Agency Heads shall ensure that DOGE Team Leads coordinate their work with USDS and advise their respective Agency Heads on implementing the President's DOGE Agenda.

Sec. 4. *Modernizing Federal Technology and Software to Maximize Efficiency and Productivity.* (a) The USDS Administrator shall commence a Software Modernization Initiative to improve the quality and efficiency of government-wide software, network infrastructure, and information technology (IT) systems. Among other things, the USDS Administrator shall work with Agency Heads to promote inter-operability between agency networks and systems, ensure data integrity, and facilitate responsible data collection and synchronization.

(b) Agency Heads shall take all necessary steps, in coordination with the USDS Administrator and to the maximum extent consistent with law, to ensure USDS has full and prompt access to all unclassified agency records, software systems, and IT systems. USDS shall adhere to rigorous data protection standards.

(c) This Executive Order displaces all prior executive orders and regulations, insofar as they are subject to direct presidential amendment, that might serve as a barrier to providing USDS access to agency records and systems as described above.

Sec. 5. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

THE WHITE HOUSE,

January 20, 2025.

The best way to fact check the mainstream narrative regarding Trump is to start with the law or something else I might be able to sue over... in this case the executive order itself was the thing to see.

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As you can see this document is barely 2 pages and certainly not written in legalese. While it is certainly not a complicated read - the idea behind this was brilliant. Trump did NOT actually create a new agency. Instead what he did was repurpose an existing agency - the USDS - into something more useful.

Sec. 3. *DOGE Structure.* (a) *Reorganization and Renaming of the United States Digital Service.* The United States Digital Service is hereby publicly renamed as the United States DOGE Service (USDS) and shall be established in the Executive Office of the President.

The USDS was an Obamacare office created to make government software better. This group was essentially software development for the bureaucracy. Trump renamed the United States Digital Service (USDS) the United States DOGE Service which even kept the acronym the same. Not only did

repurposing an appropriate existing department allow Trump to ensure there was funding for DOGE without having to fight with Congress - it also ensured its legality.

1:44 AM Wed Feb 5
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The White House
Office of the Press Secretary

For Immediate Release August 11, 2014

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FACT SHEET: Improving and Simplifying Digital Services

"I want us to ask ourselves every day, how are we using technology to make a real difference in people's lives."
— President Barack Obama

Late last year, a team of digital and technology experts helped to turn-around HealthCare.gov. Today, building on the same proven strategic approach that ultimately enabled millions of Americans to sign up for health insurance, the Administration is launching the U.S. Digital Service. This small team of America's best digital experts will work in collaboration with other government agencies to make websites more consumer friendly, to identify and fix problems, and to help upgrade the government's technology infrastructure. Mikey Dickerson, a top private-sector engineer who was part of the team that helped fix HealthCare.gov will serve as the new Administrator of the U.S. Digital Service and Deputy Federal Chief Information Officer.

The team has one core mission: to improve and simplify the digital experience that people and businesses have with their government by:

- Establishing standards to bring the government's digital services in line with the best private sector services;
- Identifying common technology patterns that will help us scale services effectively;
- Collaborating with agencies to identify and address gaps in their capacity to design, develop, deploy and operate excellent citizen-facing services; and
- Providing accountability to ensure agencies see results.

With today's announcement, the Administration is also releasing for public comment two crucial components in our growing IT toolkit that will enable agencies to do their best work- the Digital Service Playbook and the TechFAR Handbook.

Leveraging Best Practices with the Digital Services Playbook. To help the Digital Service achieve its mission, today the Administration is releasing the initial version of a **Digital Services Playbook** that lays out best practices for effective digital service delivery and that will serve as a guide for agencies across government. To increase the success of government digital service projects, this playbook outlines 13 key "plays" drawn from private and public-sector best practices that, if followed together, will help Federal agencies deliver services that work well for users and require less time and money to develop

You see Trump has power to set priorities for Executive branch departments but there are limits. In the case of DOGE, Trump clearly had a team of lawyers looking at ways to accomplish the goal of trimming government fat legally. USDS was already there and funded for the specific purpose improving government software which could create a lot more efficiency. 44 USCS Chapter 36 is the law that facilitates much of USDS. The language of the EO allows USDS to focus on efficiency and evaluating the entire government through the lens of the IT that runs it without substantially altering the agency - just its focus.

Sec. 4. *Modernizing Federal Technology and Software to Maximize Efficiency and Productivity.* (a) The USDS Administrator shall commence a Software Modernization Initiative to improve the quality and efficiency of government-wide software, network infrastructure, and information technology (IT) systems. Among other things, the USDS Administrator shall work with Agency Heads to promote inter-operability between agency networks and systems, ensure data integrity, and facilitate responsible data collection and synchronization.

At the same time Trump also wanted to bring in Elon Musk (and at the time Vivek Ramaswamy) and his team for an initial major audit/clean sweep. To do this Trump referenced another law 5 USC 3161. This law governs the creation of and staffing for what is known as a “temporary organization” in the government. This temporary group will focus on pushing the DOGE agenda and will exist for 18 months (though their work will survive). By including this group as temporary, Trump dodged several potential lawsuits as he may not have been able to create his own new administrative entity on a permanent basis without Congressional approval.

(b) *Establishment of a Temporary Organization.* There shall be a USDS Administrator established in the Executive Office of the President who shall report to the White House Chief of Staff. There is further established within USDS, in accordance with section 3161 of title 5, United States Code, a temporary organization known as “the U.S. DOGE Service Temporary Organization”. The U.S. DOGE Service Temporary Organization shall be headed by the USDS Administrator and shall be dedicated to advancing the President’s 18-month DOGE agenda. The U.S. DOGE Service Temporary Organization shall terminate on July 4, 2026. The termination of the U.S. DOGE Service Temporary Organization shall not be interpreted to imply the termination, attenuation, or amendment of any other authority or provision of this order.

In another part of the EO, Trump ordered that DOGE teams be hired in every administrative branch agency. These teams are to include a team lead, a lawyer, an HR person, and an engineer. These teams work for USDS (DOGE) but work with and within various agencies. While all this is part of a “software modernization initiative,” looking at the software and how things are managed is a great way to find out where there is waste - particularly when part of the mandate it to ensure efficiency.

(c) *DOGE Teams.* In consultation with USDS, each Agency Head shall establish within their respective Agencies a DOGE Team of at least four employees, which may include Special Government Employees, hired or assigned within thirty days of the date of this Order. Agency Heads shall select the DOGE Team members in consultation with the USDS Administrator. Each DOGE Team will typically include one DOGE Team Lead, one engineer, one human resources specialist, and one attorney. Agency Heads shall ensure that DOGE Team Leads coordinate their work with USDS and advise their respective Agency Heads on implementing the President’s DOGE Agenda.

The last part of the EO is all important boilerplate. Trump orders all agencies to support the DOGE initiative, disclaims any other prior EOs that could interfere with this order, and makes a conflict of laws statement. This was further insulation to make this harder for political opponents to fight in court.

(b) Agency Heads shall take all necessary steps, in coordination with the USDS Administrator and to the maximum extent consistent with law, to ensure USDS has full and prompt access to all unclassified agency records, software systems, and IT systems. USDS shall adhere to rigorous data protection standards.

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(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

THE WHITE HOUSE,

Honestly, I really don't like that this has to be done and think the executive branch has far more authority than they should. That said, this order was very well done and Trump and Musk have really done a good job strategically here. Here's to hoping these guys follow through on the MAGA/MAHA mandate that we the people have given and do everything possible to ensure the American people have the best future imaginable for our kids.

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