

4. Protect Democracy timely appealed Defendant IRS's adverse determination on its FOIA request pursuant to 5 U.S.C. § 552(a)(6)(A)(i)(III)(aa). Defendants failed to respond to the appeal within twenty working days, as required by 5 U.S.C. § 552(a)(6)(A)(ii). Protect Democracy has properly exhausted all administrative remedies and is now entitled to judicial action enjoining Defendants from continuing to withhold department or agency records and ordering the production of department or agency records improperly withheld.

PARTIES

5. Plaintiff Protect Democracy is a nonpartisan, non-profit section 501(c)(3) organization whose mission is to prevent American democracy from declining into a more authoritarian form of government. Protect Democracy engages in public education about threats to democratic norms and institutions and how the American people can best confront them. It advances its mission through research, analysis, technology, and litigation to stand up for free and fair elections, the rule of law, fact-based debate, and a better democracy for future generations. As part of this mission, Plaintiff seeks to inform public understanding of operations and activities of the government by gathering and disseminating information that is likely to contribute significantly to the public understanding of executive branch operations and activities. Plaintiff regularly requests such information pursuant to FOIA. The organization is incorporated under the laws of the District of Columbia.

6. Defendant Internal Revenue Service ("IRS") is a bureau of the U.S. Department of the Treasury ("Treasury") and is headquartered in Washington, D.C. IRS is an agency of the federal government within the meaning of 5 U.S.C. § 552(f)(1). IRS has possession, custody, and control of records that Protect Democracy seeks.

7. Defendant Treasury is a department of the executive branch of the U.S. government headquartered in Washington, D.C., the parent agency of IRS, and an agency of the federal government within the meaning of 5 U.S.C. § 552(f)(1). Treasury has possession, custody, and control of records that Protect Democracy seeks.

STATEMENT OF FACTS

8. On December 19, 2025, Protect Democracy submitted a FOIA request to IRS seeking the following records:

1. All formal or informal final directives, memoranda, instructions, guidance, protocols, or policies created by, issued to, or otherwise provided to the IRS regarding the implementation of President Trump's September 22, 2025 Executive Order, "Designating Antifa as a Domestic Terrorist Organization," ("Antifa EO") and/or National Security Presidential Memorandum 7, "Countering Domestic Terrorism and Organized Political Violence" ("NSPM-7").

To be clear, Protect Democracy does not seek any "return information" regarding specific taxpayers that would be exempt from disclosure under 26 U.S.C. § 6103. Protect Democracy seeks records concerning general implementation, not related to any individual taxpayer or organization. This means, for example, that guidance interpreting the Antifa EO or NSPM-7 is responsive to this request and should be produced, but lists of specific targets subject to investigation are not. To the extent a record contains both general guidance as well as material referencing individual taxpayers or organizations, such a record is responsive and should be produced with appropriate redactions.

Please provide all responsive records from September 1, 2025, through the date the search is conducted.

Exhibit 1.

9. The request contained a request for expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E).

10. On January 12, 2026, IRS sent Plaintiff a letter acknowledging receipt of the FOIA request and assigned it agency tracking number 2026-03696. In the letter, IRS stated that “[i]n response to your request, a search was conducted, and no records were located.” Exhibit 2.

11. On March 12, 2026, Protect Democracy appealed IRS’s denial of its FOIA request on the grounds that IRS failed to conduct an adequate search for records. Exhibit 3.

12. On March 25, 2026, IRS acknowledged receipt of Protect Democracy’s appeal. *See* Exhibit 4.

13. On April 14, 2026, IRS informed Plaintiff in writing that, due to unusual circumstances, it would require ten additional business days (until April 28, 2026) to consider Protect Democracy’s FOIA appeal.

14. As of the date of this filing, Protect Democracy has received no further communication from IRS regarding its appeal of the denial of its FOIA request.

15. As of the date of this filing, Protect Democracy has received no determination from Defendants regarding its FOIA request, nor has it received any records responsive to the request.

Exhaustion of Administrative Remedies

16. Through filing an administrative appeal of Defendant IRS’s denial of Protect Democracy’s FOIA request, which IRS failed to respond to, Protect Democracy has exhausted its administrative remedies and seeks immediate judicial review.

COUNT I
Violation of FOIA, 5 U.S.C. § 552
Failure to Conduct Adequate Searches for Responsive Records

17. Protect Democracy repeats the allegations in each of the foregoing paragraphs and incorporates them as though fully set forth herein.

18. Protect Democracy properly requested records within Defendants' possession, custody, and control.

19. Defendants are agencies subject to and within the meaning of FOIA, and they must therefore make reasonable efforts to search for requested records.

20. Defendants have failed to promptly and adequately search for agency records that are responsive to Protect Democracy's FOIA request.

21. Defendants' failure to conduct adequate searches for responsive records violates FOIA.

22. Plaintiff Protect Democracy is therefore entitled to injunctive and declaratory relief requiring Defendants to promptly make reasonable efforts to search for records responsive to Protect Democracy's FOIA request.

COUNT II
Violation of FOIA, 5 U.S.C. § 552
Wrongful Withholding of Non-Exempt Responsive Records

23. Protect Democracy repeats the allegations in each of the foregoing paragraphs and incorporates them as though fully set forth herein.

24. Protect Democracy properly requested records within Defendants' possession, custody, and control.

25. Defendants are agencies subject to FOIA and must therefore release in response to FOIA requests any non-exempt records and provide lawful reasons for withholding any materials.

26. Defendants are wrongfully withholding non-exempt agency records requested by Protect Democracy by failing to produce non-exempt records responsive to its FOIA request.

27. Defendants are wrongfully withholding non-exempt agency records requested by Protect Democracy by failing to segregate exempt information in otherwise non-exempt records responsive to Protect Democracy's FOIA request.

28. Defendants' failure to provide all non-exempt responsive records violates FOIA and applicable regulations.

29. Plaintiff Protect Democracy is therefore entitled to declaratory and injunctive relief requiring Defendants to promptly produce all non-exempt records responsive to its FOIA request and provide an index justifying the withholding of any responsive records withheld under claim of exemption.

REQUESTED RELIEF

WHEREFORE, Protect Democracy respectfully requests the Court to:

- (1) Order Defendants to conduct a search or searches reasonably calculated to uncover all records responsive to Protect Democracy's FOIA request;
- (2) Order Defendants to produce, within 20 days of the Court's order, or by such other date as the Court deems appropriate, all non-exempt records responsive to Protect Democracy's FOIA request with an index justifying the withholding of any responsive records withheld under claim of exemption;
- (3) Enjoin Defendants from continuing to withhold non-exempt records responsive to Protect Democracy's FOIA request;
- (4) Award Protect Democracy the costs of this proceeding, including reasonable attorneys' fees and other litigation costs reasonably incurred in this action, pursuant to 5 U.S.C. § 552(a)(4)(E); and
- (5) Grant Protect Democracy such other relief as the Court deems just and proper.

Dated: April 29, 2026

Respectfully submitted,

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