

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

COMMUNITY ECONOMIC
DEVELOPMENT CENTER OF
SOUTHEASTERN MASSACHUSETTS,
NATIONAL PARENTS UNION,
NATIONAL KOREAN AMERICAN
SERVICE AND EDUCATION
CONSORTIUM, & UNDOCUBLACK
NETWORK,

Plaintiffs,

v.

SCOTT BESENT, ACTING
COMMISSIONER OF THE INTERNAL
REVENUE SERVICE AND SECRETARY
OF THE TREASURY; DEPARTMENT OF
THE TREASURY; INTERNAL REVENUE
SERVICE; FRANK BISIGNANO,
COMMISSIONER OF THE SOCIAL
SECURITY ADMINISTRATION; SOCIAL
SECURITY ADMINISTRATION;
MARKWAYNE MULLIN, SECRETARY OF
HOMELAND SECURITY; U.S.
DEPARTMENT OF HOMELAND
SECURITY; DAVID J. VENTURELLA,
ACTING DIRECTOR OF U.S.
IMMIGRATION AND CUSTOMS
ENFORCEMENT; U.S. IMMIGRATION
AND CUSTOMS ENFORCEMENT,

Defendants.

Civil Action No. 1:25-cv-12822-IT

PLAINTIFFS' MOTION TO REMOVE REDACTIONS

REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED

I. INTRODUCTION

Plaintiffs respectfully request that the Court order Defendants to refile an unredacted version of an email communication contained in the Social Security Administration’s (“SSA”) Administrative Record (“AR”). Doc. No. 103-1 at 0096. That document depicts the execution of SSA’s data sharing with ICE, and the public has a right to view it in its entirety. But Defendants redacted the document without following this Court’s requisite procedure, and their untimely justification for the redactions is unsupported. Because they also did not file an unredacted version under seal, Defendants are preventing the Court from assessing the redactions and considering the complete record. Accordingly, the Court should grant Plaintiffs’ request.

II. BACKGROUND

On May 11, 2026, the Court granted Plaintiffs’ motion to compel and ordered SSA to produce and file the AR by May 29, 2026. Doc. No. 100. The night before that deadline, the government asked Plaintiffs to agree to a protective order for a document the government wanted to redact. Declaration of Sarah Salomon (“Salomon Decl.”), Doc. No. 121, Ex. 1. The government claimed that the document “includes privileged information that the [SSA] considers to be quite sensitive.” *Id.* In the interest of time, Plaintiffs stipulated to a limited protective order governing production of that document. *Id.* On June 3, the government filed the Stipulated Protective Order, which the Court entered the following day. Doc. Nos. 104–06.

The Stipulated Protective Order permits Plaintiffs to “challenge any designation of confidentiality with respect to the document . . . under the terms set forth in the Court’s Standing Order.” Doc. No. 104. This Court’s Standing Order requires that a party seeking to redact a document file the document under seal and “include a particularized showing” for each

designation. The government did neither; it simply redacted the document in the public record and sent an unredacted version to Plaintiffs, without further explanation.

By email on August 17, 2026, Plaintiffs requested that government counsel file on the public docket an unredacted version of the challenged document because the redacted information was “neither privileged nor confidential.” Salomon Decl., Ex. 2. The government declined, with no additional explanation. Id. Plaintiffs thereafter agreed to an extension of the meet-and-confer deadline under the Stipulated Protective Order for the government to furnish its required explanation. On August 31, the government gave three reasons for maintaining its redactions and declining to file the unredacted document: (1) the deliberative process privilege protected “[s]ome or all of the redacted information”; (2) nonprivileged information was “properly marked confidential for purposes of the public docket” because “its public disclosure would prejudice ongoing investigations into the data sharing activities involving DOGE”¹; and (3) redaction did not prejudice Plaintiffs. Id.

The parties are now at an impasse. Having followed the procedures required by the Stipulated Protective Order and this Court’s Standing Order, Plaintiffs ask the Court to require the government to file the unredacted document on the public docket.

III. LEGAL STANDARD

“[P]ublic monitoring of the judicial system fosters the important values of quality, honesty and respect for our legal system.” Siedle v. Putnam Invs., Inc., 147 F.3d 7, 10 (1st Cir. 1998) (citing F.T.C. v. Standard Fin. Mgmt. Corp., 830 F.2d 404, 410 (1st Cir. 1987)).

Accordingly, “[t]he common law presumes a right of public access to judicial records.” Id. at 9–

¹ Plaintiffs do not challenge at this time the redaction of names of SSA line-employees, given that the Court’s Order on Plaintiffs’ Motion to Complete the Administrative Record permitted the government to redact employee names. Doc. No. 113.

10. “The appropriateness of making court files accessible is accentuated in cases where the government is a party: in such circumstances, the public’s right to know what the executive branch is about coalesces with the concomitant right of the citizenry to appraise the judicial branch.” Standard Fin. Mgmt. Corp., 830 F.2d at 410.

The presumption encompasses judicial records, meaning “materials on which a court relies in determining the litigants’ substantive rights.” Id. at 408. “[O]nly the most compelling reasons can justify non-disclosure of judicial records that come within the scope of the common-law right of access.” United States v. Kravetz, 706 F.3d 47, 59 (1st Cir. 2013).²

IV. ARGUMENT

A. The Court should incorporate the unredacted document into the Administrative Record.

To assist the Court in reviewing this motion and upcoming dispositive motions, Plaintiffs are contemporaneously filing a motion to seal in order to submit an unredacted version of the disputed document under seal. Doc. No. 122. The government should have no objection, given that it is required but failed to do the same without explanation. None of the privileges asserted by the government contemplate preventing *the Court* from reviewing the full document in analyzing the government’s decision-making process reflected in the AR. See Atieh v. Riordan, 727 F.3d 73, 75 (1st Cir. 2013) (Because “jurisdiction . . . arises under the judicial review provisions of the APA, . . . judicial review of the agency’s decision must proceed on the administrative record.”); *see also* Doc. No. 100 at 2 (ordering the government to file the “complete” AR on the docket).

² Unless otherwise noted, all internal quotations and citations have been omitted and all emphases added in quoted excerpts herein.

B. The government should be ordered to file an unredacted copy of the document on the public docket.

The Court should require the government to publicly file the unredacted version³ for four reasons.

First, because the document is a judicial record, the public has a presumptive right to access the unredacted information. See Standard Fin. Mgmt. Corp., 830 F.2d at 408. This document is critical to show this Court how SSA-ICE data sharing arrangements were carried out, including the exact steps the SSA took to do so. Documents in the AR that the Court considers when reviewing administrative decisions constitute judicial records to which the presumption of public access attaches. See id. at 408–09. Since the document will be part of the Court’s review of the SSA’s and ICE’s actions in this case, it constitutes a judicial record to which the public has a right to access in full. See also Kravetz, 706 F.3d at 55–56 (presumptive right of public access to materials that “bear directly on” the judge’s substantive determination).

Second, the deliberative process privilege does not justify the government’s redactions. While privilege can be an exception to the presumption of public access, see Siedle, 147 F.3d at 11, the deliberative process privilege only applies to agency materials “that are both predecisional and deliberative,” meaning they are both “antecedent to the adoption of agency policy” and “actually related to the process by which policies are formulated,” Texaco Puerto Rico, Inc. v. Dep’t of Consumer Affs., 60 F.3d 867, 884–85 (1st Cir. 1995). The disputed document is neither: it is not predecisional because it was “not created to decide whether the [data sharing] should take place, but rather, [it was] created after the decision to implement the [data sharing] had already been made.” New York v. McMahon, 826 F. Supp. 3d 184, 198 (D.

³ Aside from redacting names and emails of the government workers. See Doc. No. 113.

Mass. 2026). The documented email was sent on March 3, 2025, *after* the decision was made in February to start exchanging data between SSA and ICE. See Doc. No. 73 ¶ 106.⁴ And it is evident from the face of the document that [REDACTED]

[REDACTED], and produced the addresses to ICE. Accordingly, like in McMahon, the document is also not “deliberative” because it “involve[s] the mechanics of how the [agency action] will be implemented, after the policy of implementing the [action] had been decided.” 826 F. Supp. 3d at 198; see also Woonasquatucket River Watershed Council v. U.S. Dep’t of Agric., 2025 WL 2281864, at *2 (D.R.I. Aug. 8, 2025), aff’d, 2026 WL 2279789 (1st Cir. 2026) (documents not deliberative where they did not “reflect ‘personal opinions’ or ‘prematurely disclose the views’” of the agency (quoting Providence J. Co. v. U.S. Dep’t of Army, 981 F.2d 552, 559 (1st Cir. 1992))).⁵

Third, the government has provided no legal or factual support for claiming that the redacted information is sensitive because of ongoing investigations into DOGE. “[G]eneral references” to countervailing interests are insufficient to overcome the presumption of public access; “the law requires” a more “detailed explanation.” Kravetz, 706 F.3d at 60; see also Johnson v. Greater Se. Cmty. Hosp. Corp., 951 F.2d 1268, 1278 (D.C. Cir. 1991) (party

⁴ See also Hr’g on Prelim. Inj. Tr. at 71:14-72:15 (Dec. 19, 2025); Alexandra Berzon, Hamed Aleaziz, Nicholas Nehamas, Ryan Mac, and Tara Siegel Bernard, Social Security Lists Thousands of Migrants as Dead to Prompt Them to ‘Self-Deport’, N.Y. TIMES (Apr. 10, 2025), <https://www.nytimes.com/2025/04/10/us/politics/migrants-deport-social-security-doge.html>.

⁵ Alternatively, this Court need not determine whether the document is deliberative because the deliberative process privilege is discretionary, based on the court’s determination “among other things, the interests of the litigants, society’s interest in the accuracy and integrity of factfinding, and the public’s interest in honest, effective government.” Texaco, 60 F.3d at 885. For the reasons discussed throughout this brief, these interests counsel against application of the privilege here.

opposing unsealing must “come forward with specific reasons why the record, or any part thereof, should remain under seal”). The government’s failure to follow the required sealing procedure in this Court leaves Plaintiffs and the Court with nothing more than the government’s vague and self-serving basis for the redaction—such as who is investigating DOGE, how this document has such an outsize impact on that investigation, or what legal authority supports the claim. The Court should not credit such a generalized and unsupported assertion.

Finally, whether the government has prejudiced Plaintiffs is irrelevant to the public’s presumptive right to view judicial documents. The presumption concerns “the *public’s* right to know what the executive branch is about” and “the concomitant right *of the citizenry* to appraise the judicial branch.” Standard Fin. Mgmt. Corp., 830 F.2d at 410. The public’s right should not be deprived simply because one party provided the other party an unredacted version, otherwise the public’s right to access judicial records would be rendered meaningless. See, e.g., In re McCormick & Co., Inc., Pepper Prods. Mktg. & Sales Pracs. Litig., 316 F. Supp. 3d 455, 466 (D.D.C. 2018) (rejecting defendant’s attempt to seal documents “because there is no prejudice to Plaintiffs”). That is not what the presumption entails.

V. CONCLUSION

For those reasons, the Court should require the government to file a replacement version of the document on the public docket and remove every redaction except those the Court specifically determines should remain sealed, by October 9, 2026.

Respectfully submitted,

KEKER, VAN NEST & PETERS LLP

Dated: September 10, 2026

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LOCAL RULE 7.1(a)(2) CERTIFICATION

Pursuant to Local Rule 7.1(a)(2), counsel for Plaintiffs certify that they have sent counsel for all Defendants notice of this motion and they have met and conferred in good faith with Defendants' counsel concerning this motion, in an effort to narrow or resolve the issues before filing.

/s/ Leo Lam
Leo Lam

CERTIFICATE OF SERVICE

I certify that this document is being filed through the Court's electronic filing system, which serves counsel for other parties who are registered participants as identified on the Notice of Electronic Filing (NEF). Any counsel for other parties who are not registered participants are being served by first class mail.

/s/ Leo Lam
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