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Public Comment to DOJ Regarding the Foreign Agents Registration Act (FARA) e-File System

On April 20, 2023 the Department of Justice (DOJ) issued a [notice](#) soliciting public comment on the Foreign Agents Registration Act (FARA) e-File system. Specifically, DOJ asked for public comment related to four points:

1. “Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the National Security Division, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Evaluate whether and if so, how the quality, utility, and clarity of the information to be collected can be enhanced; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.”

This document provides comments related to points 1, 3, and 4 from Benjamin Freeman, Ph.D., a Research Fellow with the Quincy Institute for Responsible Statecraft who has been researching and writing about FARA for fifteen years. Dr. Freeman previously submitted a [public comment](#) to DOJ regarding reforms to the FARA regulations. He also founded and directed the Foreign Influence Transparency Initiative (FITI) at the Center for International Policy. FITI published reports on the activities of FARA registrants from a number of countries, including [Saudi Arabia](#), the [United Arab Emirates](#), and [Turkey](#), and several briefs that help to inform this public comment, including, “[Recent Proposals to Amend the Foreign Agents Registration Act](#),” and, “[Towards Global Best Practices for Regulating Foreign Influence](#).”



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This comment is co-signed by the Project On Government Oversight (POGO), Demand Progress, Democracy for the Arab World Now (DAWN), and Citizens for Responsibility and Ethics in Washington (CREW).

POGO has an extensive history of analyzing FARA filings in research projects that have improved transparency, accountability, and, generally, increased public and policymaker awareness of FARA. Most notably, this included POGO's creation of the "[Foreign Influence Database](#)," which was the first ever online repository of FARA "Informational Materials," and the report, "[How the Foreign Agents Registration Act Falls Short](#)."

Demand Progress Education Fund and its sister organization Demand Progress have, similarly, been on the forefront of calls for FARA reform. Demand Progress Education Fund has submitted comments to the DOJ on modernizing FARA in [2022](#) and in [2017](#) and worked to [educate the public](#) about FARA, and Demand Progress has repeatedly co-authored testimony with POGO urging Congress to [move forward FARA reform legislation](#). Daniel Schuman, who is policy director at Demand Progress Education Fund, also wrote [reports](#) and authored testimony on behalf of the Sunlight Foundation as well as meeting with [representatives of the FARA unit](#) when he served as its policy counsel from 2009-2013.

DAWN has notably launched the "[Lobbyist Hall of Shame](#)," an initiative to research and expose lobbyists acting on behalf of abusive foreign governments, and has also actively [advocated for FARA reform with Congress](#) while [reporting apparent lobbyist violations to FARA](#). DAWN aims to [scrutinize](#) and assess the actions of lobbyists and associated government officials in accordance with domestic and international human rights laws and professional, ethical standards.

Citizens for Responsibility and Ethics in Washington (CREW) is a nonprofit, nonpartisan organization committed to ensuring the integrity of our government institutions. CREW has been outspoken about the urgent need for FARA reform, highlighting [disclosure loopholes](#) and educating the public about [foreign influence](#) on US politics and policy.



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The comment begins with a brief discussion of FARA's limitations and then provides two specific reforms to the e-file system that address points 1, 3, and 4 in the DOJ notice.

Using the e-File System to Fix FARA

Although 85 years old, FARA is arguably the best tool the U.S. public has for understanding how foreign powers are attempting to influence the U.S. political process and the public itself. In many respects, however, FARA is fundamentally flawed. Remedying some shortcomings—including vague and ambiguous language in the statute, limited enforcement tools, and glaring loopholes that permit under and non-compliance—will require legislative action. But, some of the barriers to meaningful public and policymaker evaluation of the work foreign powers are doing to exert influence in the U.S. can be remedied through reforms to the e-file system.

Reform 1: Include Additional Information in e-File Templates and Web Forms

Previously the FARA unit permitted registrants to submit PDFs of their filings with no standardized format for attachments to them. This resulted in an unwieldy assortment of attachment formats, including various styles of spreadsheets (some in portrait view, others in landscape), a single column of text, narrative paragraphs, and even handwritten attachments, just to name a few.

Fortunately, as of September 2022, the FARA unit partially eliminated this problem by requiring all new and existing FARA registrants to use the new [e-file webform portal system](#). This system supports data entry via the web-based form and importing a comma-separated value (CSV) file for certain questions. Unfortunately, the [templates](#) provided by the FARA unit for these CSV files in some cases omit critically important information that would meaningfully increase the value of this information to the public.

The FARA e-File system can be updated to indicate, precisely, what information registrants are required to disclose and to ensure that it is universally submitted in



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standardized, machine-processable formats that make use of common entity identifiers. Historically, the transparency afforded by the filings of FARA registrants has varied immensely. At one end of the spectrum, some firms provided detailed accounts of all their political activities and, at the other end, some firms provide extremely limited details about the work they're conducting on behalf of their foreign principals. To remedy this the e-file system can improve data entry forms and templates to unambiguously indicate what information registrants are required to disclose.

Specifically, the political activities templates and web forms (both for Supplemental Statements and Exhibit B's) should be modified to include—and require submission of—columns indicating the name of the short form registrant conducting the political activity, their short form registration number, and the name of the organization they are contacting (e.g. House or Senate). Similarly, political contributions templates and web forms (for Initial Registrations, Short Form Registrations, and Supplemental Statements) should be modified to include—and require submission of—a column indicating the short form registration number of the donor and a column indicating the Federal Election Committee identification number of the campaign receiving the donation.

This simple reform would have ramifications for points 1, 3, and 4 of the DOJ notice. To point 1, this reform would provide the national security division with additional information to determine if FARA registrants are, in fact, in compliance with FARA's [regulations](#) which state that filings should have a, “degree of specificity necessary to permit meaningful public evaluation of each of the significant steps taken by a registrant to achieve the purposes of the agency relation.” By providing both foreign agent's and contribution recipient's identification numbers the public and the national security division will be better able to track who is doing what on behalf of foreign principals and where foreign agents' contributions are going. Currently, many FARA filings do not indicate which short form registrant is engaging in the political activities being reported, even though the messenger can be just as important as the message when policymakers, journalists, researchers, and the general public are trying to understand how the agents of foreign principals are attempting to wield influence in the U.S. For contributions, in some cases, it is quite difficult to determine exactly whom is receiving the donations being reported in FARA filings. For example, when a FARA filing (like this [one](#)) indicates a contribution was made to “Johnson for



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Congress,” it is not at all clear which one of the many candidates whose last name is Johnson this donation is going to. Including FEC identification numbers in FARA filings will remedy this barrier to transparency. To the maximum extent practicable, FARA should make use of unique identifiers used by other components of government to identify individuals and entities. All of this will enhance the quality, utility, and clarity of the information being provided to the FARA unit, to point 3 of this notice.

These reforms will also help to create a level playing field for FARA registrants that encourages transparency, rather than disincentivizing firms from providing more information than their competitors. Under the current system, as previously mentioned, there are great discrepancies about the information provided by FARA registrants. This speaks to point four of the notice, as it would minimize the burdens on FARA registrants who have wasted countless hours determining what information is required in filings.

Reform 2: Using the E-File System to Populate Additional Bulk Data and API Endpoints on the FARA Website

With all FARA registrants adhering to the same level of fully transparent disclosures, the FARA e-file system can be used to make these filings more accessible to the public. I have trained numerous journalists, academics, think tank experts, and others in how to obtain and analyze FARA filings, and can attest that the vast majority continue to find the website challenging to use, despite significant improvements to its functionality in recent years.

To at least partially remedy this problem—and further aid the public’s ability to access the information contained in FARA filings—all of the information obtained in the new web forms and CSV uploads should be used to populate tables within a database, preferably in a standard relational database system with a common language such as SQL. This database should then be queryable through an API, so that journalists,



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academics, policymakers, and any other interested parties can extract, transform, and analyze the data they need to better inform themselves and the general public about the “significant steps taken by a registrant to achieve the purposes of the agency relation,” as the FARA [regulations](#) require.

The recent addition of the “Search Filings” function on the FARA website is a marked improvement over the “Browse Filings” option, which has historically confounded many FARA website users. Yet, the “Search Filings” utility is constrained by the fact that it can only guide users to PDF documents that contain the search terms they enter. It does not provide a sense of scale indicating how many times the search terms appear in any one document, nor does it indicate where in the document the search terms appear (e.g. political activities, contributions, etc...).

Similarly, while the addition of the “[Bulk Data](#)” repository and the [API](#) have been important improvements to the FARA website, they both provide only limited information to users. Critically, they do not provide users with the means to access bulk data on the political activities, political contributions, or receipts reported by FARA registrants. Of all the information reported by FARA registrants, these three items have, by far, the greatest utility to policymakers, researchers (like myself), journalists, and the general public. These questions are the key to any investigation of how foreign agents are working on behalf of foreign principals to garner influence in the U.S. Thus, to point three of this notice, increasing publicly available access to this information will be of critical importance for increasing the utility of the FARA website and the e-file system.

To point four of this notice, adding these items as endpoints to the FARA API will require no additional work on behalf of FARA registrants. All of this information is already being entered through FARA’s web-forms and CSV uploads. Thus, the information needed for this database has already been digitized and would place no additional burden on FARA registrants. All that is needed is for DOJ and the FARA unit to provide these additional API endpoints on the FARA website.