

Congress of the United States
Washington, DC 20515

September 29, 2020

The Honorable Russell T. Vought
Acting Director
Office of Management and Budget
1650 Pennsylvania Avenue, N.W.
Washington, D.C. 20502

Dear Acting Director Vought:

We write to request documents and information about the Trump Administration's cancelation of diversity and anti-racism training in the federal government.

On September 4, 2020, the Office of Management and Budget (OMB) issued a memorandum instructing federal agencies to "identify all contracts or other agency spending related to any training on 'critical race theory' [and] 'white privilege,'" and to "identify all available avenues" to cancel those contracts and redirect obligated federal funds. Following issuance of your memorandum, President Trump issued an Executive Order banning diversity training in federal agencies, at companies that receive federal government contracts, and within organizations that are awarded federal grants or other awards.¹

OMB's memorandum and President Trump's Executive Order exhibited a level of ignorance rarely seen at executive levels in government or the private sector. For instance, they hyperventilated that diversity trainings were "un-American propaganda" and "race or sex stereotyping or scapegoating." These trainings help Americans to understand the history of race and racism in the United States, how that legacy affects government policy, and how they can identify and correct unconscious biases that affect important policy and personnel decisions. Banning such trainings as the OMB memorandum and Executive Order do threatens to undermine decades of equal employment opportunity efforts and blindfold policymakers who should be working to eliminate racial disparities in health care, employment, and other critical sectors of society. OMB's memorandum and the President's Executive Order also undercut a positive federal response to the social unrest sparked by the deaths of Breonna Taylor and George Floyd, and the paralyzation of Jacob Blake at the hands of police.

Unfortunately, OMB's memorandum and the President's Executive Order are consistent with other actions taken by President Trump that antagonize equal opportunity and aggravate social divisions in America.

¹ Memorandum from Director Russell Vought to Heads of Executive Departments and Agencies, *Training in the Federal Government* (Sept. 4, 2020) (online at www.whitehouse.gov/wp-content/uploads/2020/09/M-20-34.pdf); Exec. Order No. 13950 (Sept. 22, 2020).

Studies Reveal That Hiring and Promotion Decisions in the Federal Government and Economy At Large Do Not Reflect Composition of Society

Studies have revealed that the federal government falls short in hiring and promoting qualified, diverse individuals. The nonpartisan Partnership for Public Service, for example, recently found that:

[P]eople of color represent 46% of all full-time, entry-level employees but only 32% of senior-level positions. And within the Senior Executive Service—the elite corps of experienced civil servants responsible for leading the federal workforce—the disparity is even wider. Only 22% of all career SES members are people of color.

Government is not just failing to promote nonwhite employees, it is failing to hire them into professional positions in the first place. Black and other employees of color make up 53% of clerical positions but only 31% of the professional workforce, according to OPM’s FedScope data. People of color also aren’t equally represented across the executive branch. For example, white people make up 77% of the Office of Management and Budget, a federal agency that has significant impact on policy and the nation’s financial resources, while people of color are the majority at the Equal Employment Opportunity Commission, an important organization but one with significantly less influence.²

A January 2020 Government Accountability Office (GAO) study found that in the Department of State’s civil service, racial and ethnic minorities were between 4% and 29% less likely to be promoted than their similarly educated and experienced white coworkers.³ Another GAO study of the U.S. Agency for International Development (USAID) found that racial and ethnic minorities were between 31% to 41% less likely to be promoted than their similarly situated white counterparts.⁴

A 2019 Congressional Research Service (CRS) study found that people of color were underrepresented in the military officer corps, even though they were proportionally represented in the rank and file,

[I]n the officer corps, and especially at the senior leadership level, racial and ethnic minorities are underrepresented relative to the enlisted corps and the U.S. population. For example, those of Hispanic origin (age 18-64) account for approximately 18% of the population and 18% of the active duty enlisted corps.

² *A Revealing Look at Racial Diversity in the Federal Government*, The Partnership for Public Service (July 14, 2020) (online at <https://ourpublicservice.org/blog-a-revealing-look-at-racial-diversity-in-the-federal-government/>).

³ Government Accountability Office, *State Department: Additional Steps are Needed to Identify Potential Barriers to Diversity* (Jan. 27, 2020) (GAO-20-237) (online at www.gao.gov/products/GAO-20-237).

⁴ Government Accountability Office, *USAID: Mixed Progress in Increasing Diversity, and Actions Needed to Consistently Meet EEO Requirements* (Jan. 23, 2020) (GAO-20-477) (online at www.gao.gov/products/GAO-20-477).

However, Hispanic officers account for roughly 8% of the officer corps and 2% of General/Flag officers.⁵

The same study found that Blacks constitute just 8% of the officer corps, though they comprise nearly 14% of the population.⁶

According to the Bureau of Labor Statistics, in 2018, joblessness rates were higher than the overall national rates in American Indian and Alaska Native populations, Black and African American populations, and in populations where people were categorized as being of two or more races. The data also show that Hispanics and Blacks have much lower earnings than their White and Asian counterparts—and the disparity holds across all major occupational groups.⁷

Other Racial Disparities Have Also Worsened Under the Trump Administration

Under the Trump Administration, other types of racial disparities have also worsened. For instance, the coronavirus pandemic has had a disproportionately large impact on people of color. Many preventable deaths of people of color can be linked to missteps taken by President Trump. That is an example of the deadly consequences when federal leadership fails to consider the historical legacy of racism and discrimination in making federal policy.

Though President Trump knew that the coronavirus was unlike other flus and was deadly, he knowingly downplayed the threat and refused to take necessary steps to protect the general public.⁸ He failed to issue sweeping quarantine orders, as other world leaders did, to slow the spread of the disease.⁹ People of color have paid a disproportionate price for the Administration's failure to act. Nationwide, "people of color are really bearing the heaviest burden of COVID-19 at every stage, from risk of exposure, to access to testing, to severity of the illness and eventually death."¹⁰

⁵ Congressional Research Service, *Diversity, Inclusion, and Equal Opportunity in the Armed Forces: Background and Issues for Congress* (June 5, 2019) (R44321) (online at <https://crsreports.congress.gov/product/pdf/R/R44321>).

⁶ *Id.*

⁷ U.S. Bureau of Labor Statistics, *Labor Force Characteristics by Race and Ethnicity, 2018* (Oct. 2019) (Report 1082) (online at www.bls.gov/opub/reports/race-and-ethnicity/2018/home.htm).

⁸ Bob Woodward, *Rage* (Sept. 15, 2020).

⁹ *Trump Tells Woodward He Deliberately Downplayed Coronavirus Threat*, National Public Radio (Sept. 10, 2020) (online at www.npr.org/2020/09/10/911368698/trump-tells-woodward-he-deliberately-downplayed-coronavirus-threat).

¹⁰ *As Pandemic Deaths Add Up, Racial Disparities Persist – And in Some Cases Worsen*, National Public Radio (Sept. 23, 2020) (online at www.npr.org/sections/health-shots/2020/09/23/914427907/as-pandemic-deaths-add-up-racial-disparities-persist-and-in-some-cases-worsen).

In the early months of the crisis, the Administration failed to collect or release adequate demographic data on the virus, obscuring the racial disparities as the virus spread out of control.¹¹

The federal government has taken no discernible steps to address those disparities, and in intervening months, the racial gaps have only widened.¹² Recent data showed that 76% of American children who have died from the virus were people of color.¹³ The Centers for Disease Control and Prevention itself noted that the racial disparities in the virus are likely due to long-standing structural inequalities that our government has failed to eradicate, including “crowded living conditions, food and housing insecurity, wealth and educational gaps, and racial discrimination,” as well as “delays in accessing health care because of lack of insurance, child care, transportation, or paid sick leave.”¹⁴

The economic crises caused by the Administration’s mishandling of the pandemic has also devastated people of color. A recent survey on the pandemic’s economic impact showed that compared to 36% of white households, 72% of Latino households, 60% of Black households, and 55% of Native American households “reported a serious financial problem like using up all of their savings, food insecurity and an inability to pay for housing.”¹⁵

Meanwhile, the Trump Administration has used the courts to dismantle the Affordable Care Act, which narrowed racial gaps in health care coverage for the precise communities that are bearing the brunt of this virus.¹⁶

The Trump Administration has also abdicated leadership on policing reform, which has broad support among the American public of all races.¹⁷ OMB’s memorandum and the

¹¹ *Data on the Race of Coronavirus Victims is Inconsistent. Rep. Ayanna Pressley Wants to Change That*, Washington Post (Apr. 2, 2020) (online at www.washingtonpost.com/politics/2020/04/02/data-race-coronavirus-victims-is-inconsistent-rep-ayanna-pressley-wants-change-that/).

¹² *As Pandemic Deaths Add Up, Racial Disparities Persist – And in Some Cases Worsen*, National Public Radio (Sept. 23, 2020) (online at www.npr.org/sections/health-shots/2020/09/23/914427907/as-pandemic-deaths-add-up-racial-disparities-persist-and-in-some-cases-worsen).

¹³ *Most Kids Who Died from COVID-19 in the US Were Children of Color New CDC Study Finds, Further Highlighting Racial Disparities in Pandemic*, Mass Live (Sept. 16, 2020) (online at www.masslive.com/coronavirus/2020/09/most-kids-who-died-from-covid-19-in-the-us-were-children-of-color-new-cdc-study-finds-further-highlighting-racial-disparities-in-pandemic.html).

¹⁴ Centers for Disease Control and Prevention, *Morbidity and Mortality Weekly Report (MMWR): SARS-CoV-2-Associated Deaths Among Persons Aged <21 Years – United States, February 12–July 31, 2020* (Sept. 18, 2020) (online at www.cdc.gov/mmwr/volumes/69/wr/mm6937e4.htm?s_cid=mm6937e4_w).

¹⁵ *COVID-19 Hits Latino, Black and Native American Wallets Harder*, Roll Call (Sept. 16, 2020) (online at www.rollcall.com/2020/09/16/covid-19-hits-latino-black-and-native-american-wallets-harder/).

¹⁶ Jonathan Metzl, *Trump’s Pandemic Attack on the Affordable Care Act*, U.S. News & World Report (July 9, 2020) (online at www.usnews.com/news/healthiest-communities/articles/2020-07-09/trumps-pandemic-attack-on-obamacare-threatens-to-widen-racial-health-divide).

¹⁷ *Exclusive: Most Americans, Including Republicans, Support Sweeping Democratic Police Reform Proposals – Reuters/Ipsos Poll*, Reuters (June 11, 2020) (online at www.reuters.com/article/us-minneapolis-police-

President's Executive Order may undercut the actions of at least one federal agency, which scheduled an anti-racism training in direct response to George Floyd's murder by Minneapolis police. The Administration, however, has refused to meaningfully entertain such reform. Businesses across the nation have committed themselves to affirmatively tackling structural racism.¹⁸

Widespread Condemnation of the OMB Memorandum

OMB's memorandum has provoked strong condemnation from government, the private sector, and academia.

For instance, the Deans of the five University of California law schools called your memorandum "absurd," adding:

The OMB memorandum equates Critical Race Theory to two inaccurate and wildly oversimplified tenets: (1) the United States is "an inherently racist or evil country" and (2) that white people are "inherently racist or evil." This characterization reduces a sophisticated, dynamic field, interdisciplinary and global in scope, to two simplistic absurdities. In fact, a center principle of Critical Race Theory is that there is nothing "inherent" about race. Rather CRT invites us to confront with unflinching honesty how race has operated in our history and our present, and to recognize the deep and ongoing operation of "structural racism," through which racial inequality is reproduced within our economic, political, and educational systems even without individual racist intent." We cannot stand silent in the face of the OMB's absurd claim that Critical Race Theory is "contrary to all we stand for as Americans and should have no place in the federal government."¹⁹

The Lawyers' Committee for Civil Rights called your guidance "an attempt to discredit, condemn, and silence important conversations happening in communities and workplaces about anti-racism and about our nation's history of white supremacy." They added that yours and President Trump's efforts send "a dangerous message to the country that racism is a fallacy."²⁰

The Anti-Defamation League said your guidance was "directly contrary to our nation's fundamental beliefs and values of liberty, justice, and equality," adding that participation in

poll-exclusive/exclusive-most-americans-including-republicans-support-sweeping-democratic-police-reform-proposals-reuters-ipsos-poll-idUSKBN23I380).

¹⁸ *Here's What Companies Are Promising to do to Fight Racism*, New York Times, (Aug. 23, 2020) (online at www.nytimes.com/article/companies-racism-george-floyd-protests.html).

¹⁹ *UC Law Deans Response to OMB Prohibition on Critical Race Theory Training*, UCI Law (Sept. 11, 2020) (online at www.law.uci.edu/news/in-the-news/2020/richardson-uc-law-deans-critical-race-theory.html).

²⁰ *Lawyers' Committee for Civil Rights Under Law, Press Release: Trump OMB Director's Elimination of Anti-Racism Trainings Serves as Both a Denial and a Perpetuation of White Supremacy* (Sept. 5, 2020) (online at www.lawyerscommittee.org/trump-omb-directors-elimination-of-anti-racism-trainings-serves-as-both-a-denial-and-perpetuation-of-white-supremacy/).

training that seeks to identify and abolish structural racism is “essential work to ensure that our nation can live up to its founding ideals.”²¹

Chad Hooper, the President of the Professional Managers Association who also serves as a manager at the Internal Revenue Service, noted that federal employees of color are 50% less likely to get a promotion in the civil service, and that people of color in the military are twice as likely to go to military court as a defendant. He added that our country has a racist past, and the “notion that we would not have to as a society heal from that or reconcile our past practice with our current situation to me is very cognitively dissonant, I just don’t believe that we can stick our head in the sand and say it will all work out.”²²

Longstanding Federal Policy Has Sought to Equalize Opportunity

The federal government has long recognized that a workforce that represents the diversity of society at large can spark innovation, better serve customers, and improve outcomes.²³ Policies intended to achieve that standard “can prevent civil rights violations, increase inclusion and promote teamwork” as well “prevent or reduce discrimination complaints and lawsuits.”²⁴

The Supreme Court has recognized that a robust anti-discrimination compliance program with diversity training is so important that having one can insulate employers from claims of discrimination.²⁵ Both the Equal Employment Opportunity Commission and the Department of Justice Civil Rights Division have included mandatory anti-discrimination diversity training in

²¹ Anti-Defamation League, *Press Release: ADL Troubled by OMB Memorandum on Critical Race Theory Trainings* (Sept. 11, 2020) (online at www.adl.org/news/press-releases/adl-troubled-by-omb-memorandum-on-critical-race-theory-trainings).

²² *The Case Against OMB’s New Race Training Memo*, Federal News Network (Sept. 22, 2020) (online at <https://federalnewsnetwork.com/workforce/2020/09/the-case-against-ombs-new-race-training-memo/>).

²³ *Why Diverse Teams are Smarter*, Harvard Business Review (Nov. 4, 2016) (online at <https://hbr.org/2016/11/why-diverse-teams-are-smarter>); *The Benefits of Cultural Diversity in the Workplace*, Forbes (Sept. 13, 2019) (online at www.forbes.com/sites/forbescoachescouncil/2019/09/13/the-benefits-of-cultural-diversity-in-the-workplace/#1d984bd571c0).

²⁴ *There’s Nothing Un-American About Equity*, Inclusion, Start Tribune (Sept. 13, 2020) (online at www.startribune.com/there-s-nothing-un-american-about-equity-inclusion/572387652/).

²⁵ *Canceling Anti-Racism Training Weakens Agency Liability Shields*, Bloomberg Law (Sept. 9, 2020) (online at <https://news.bloomberglaw.com/daily-labor-report/canceling-anti-racism-training-weakens-agency-liability-shields>).

their employment discrimination settlement agreements.²⁶ Diversity training is so essential that the federal government's rollback has been characterized as "HR malpractice."²⁷

Request for Documents

In our view, OMB's memorandum and President Trump's executive order are steps backward for society. We therefore request that OMB provide, by October 13, 2020, and on a weekly basis thereafter, documents and information sufficient to show:

1. All guidance distributed by OMB to federal agencies, contractors, or grantees on how to implement the September 4, 2020, memorandum, President Trump's September 23, 2020, Executive Order, or any other similar directives;
2. Any documents or communications referring or relating to the reasoning behind or justifications for the memorandum and the Executive Order, including complaints, studies, reports, analyses, memoranda, and legal opinions;
2. A spreadsheet of all programs, trainings, or contracts that have been reviewed for compliance with the memorandum or Executive Order, including:
 - a. the federal agencies slated to host or administer affected programs, trainings, or contracts;
 - b. the dates of the scheduled programs, trainings, and contracts;
 - c. the numbers of expected attendees for each program, training, or contract;
 - d. the stated purpose and full description of affected programs, trainings, or contracts, as written before September 4, 2020, including any documents or information included in a contract, training, or program proposal;
 - e. an indication as to whether the program, training, or contract will be altered, cancelled, or otherwise affected by the memorandum or Executive Order, if so, how it will be altered and/or the date of cancellation;
 - f. a breakout by agency of the funding or appropriated dollars the federal government may lose because of the alteration or cancellation of a

²⁶ Equal Employment Opportunity Commission, *Significant EEOC Race/Color Cases (Covering Private and Federal Sectors)* (last accessed Sept. 26, 2020) (online at www.eeoc.gov/initiatives/e-race/significant-eeoc-racecolor-casescovering-private-and-federal-sectors); *Pocomoke City Agrees to Consent Decree in Settlement with Black Police Officers*, Washington Post (Mar. 28, 2019) (online at www.washingtonpost.com/local/pocomoke-city-agrees-to-consent-decree-in-settlement-with-black-police-officers/2019/03/28/1ebe3f58-517c-11e9-a3f7-78b7525a8d5f_story.html).

²⁷ *Canceling Anti-Racism Training Weakens Agency Liability Shields*, Bloomberg Law (Sept. 9, 2020) (online at <https://news.bloomberglaw.com/daily-labor-report/canceling-anti-racism-training-weakens-agency-liability-shields>).

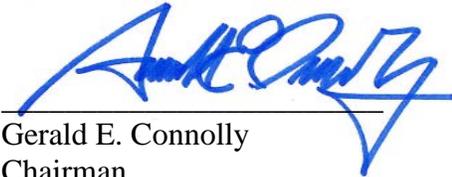
- program, training, or contract affected by the guidance or the executive order;
- g. a list of all federal contractors, grantees, or other federal awardees affected by the any alteration to the program, and any financial losses those entities have incurred or anticipate incurring; and
 - h. if federal funds will be redirected pursuant to the memorandum or Executive Order, the amount of money to be redirected and a full description of how those funds will be used; and
3. Any analysis of how this guidance and Executive Order will affect the recruitment, retention, and advancement of women and people of color in the federal government, federal contractor communities, and the federal grantee and awardee communities; and
5. All documents and communications with any individuals, inside or outside OMB, who were involved in the drafting or review of or consulted about the substance, implementation, or potential impacts of the memorandum or Executive Order.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. If you have any questions, please contact Subcommittee staff at (202) 225-5051.

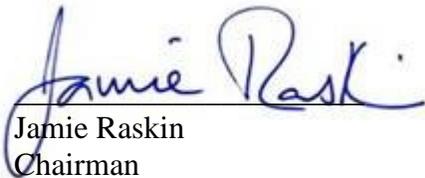
Sincerely,



Carolyn B. Maloney
Chairwoman
Committee on Oversight and Reform



Gerald E. Connolly
Chairman
Subcommittee on Government
Operations



Jamie Raskin
Chairman
Subcommittee on Civil Rights and
Civil Liberties



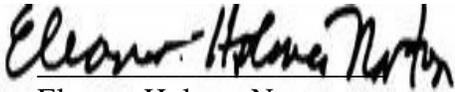
Stephen F. Lynch
Chairman
Subcommittee on National Security



Raja Krishnamoorthi
Chairman
Subcommittee on Economic and Consumer Policy



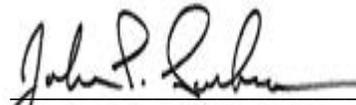
Harley Rouda
Chairman
Subcommittee on the Environment



Eleanor Holmes Norton
Member of Congress



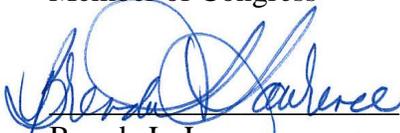
Ro Khanna
Member of Congress



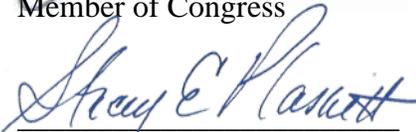
John P. Sarbanes
Member of Congress



Jackie Speier
Member of Congress



Brenda L. Lawrence
Member of Congress



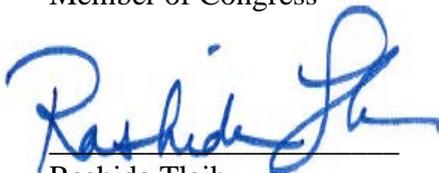
Stacey E. Plaskett
Member of Congress



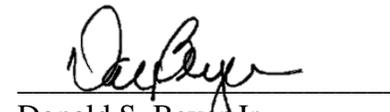
Jimmy Gomez
Member of Congress



Alexandria Ocasio-Cortez
Member of Congress



Rashida Tlaib
Member of Congress



Donald S. Beyer Jr.
Member of Congress



David Trone
Member of Congress



Jennifer Wexton
Member of Congress

Enclosure

cc: The Honorable James R. Comer, Ranking Member
Committee on Oversight and Reform

The Honorable Jody B. Hice, Ranking Member
Subcommittee on Government Operations

The Honorable Chip Roy, Ranking Member
Subcommittee on Civil Rights and Civil Liberties

The Honorable Glenn Grothman, Ranking Member
Subcommittee on National Security

The Honorable Michael Cloud, Ranking Member
Subcommittee on Economic and Consumer Policy

The Honorable Mark Green, Ranking Member
Subcommittee on Environment

Responding to Oversight Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
 - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - b. Document numbers in the load file should match document Bates numbers and TIF file names.
 - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - d. All electronic documents produced to the Committee should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.

7. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committee's letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic

message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.

3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.