

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051
MINORITY (202) 225-5074
<https://oversight.house.gov>

May 27, 2021

Mr. Joseph Ferreira
President and Chief Executive Officer
Nevada Donor Network
2055 East Sahara Avenue
Las Vegas, NV 89104

Dear Mr. Ferreira:

The Subcommittee on Economic and Consumer Policy requests documents and information from Nevada Donor Network concerning certain costs submitted to Medicare for reimbursement and other issues that arose during your testimony before the Subcommittee on May 4, 2021.

Medicare Reimbursement of Costs Unrelated to Organ Acquisition or Patient Care

Medicare reimburses a high percentage of Organ Procurement Organization (OPO) costs.¹ Sometimes, unnecessary and excessive expenses having nothing to do with organ procurement have been reimbursed. Audits of some OPOs have uncovered lavish spending on frivolous items such as executive parties and costs for building parade floats.²

You confirmed under oath that Nevada Donor Network holds season tickets for the National Football League's Las Vegas Raiders and the National Hockey League's Las Vegas Golden Knights and spent money on multiple board retreats to California wine country.³ If

¹ Centers for Medicare and Medicaid Services, *Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Proposed Policy Changes and Fiscal Year 2022 Rates; Quality Programs and Medicare Promoting Interoperability Program Requirements for Eligible Hospitals and Critical Access Hospitals; Proposed Changes to Medicaid Provider Enrollment; and Proposed Changes to the Medicare Shared Savings Program*, 86 Fed. Reg. 25070 (May 10, 2021) (proposed rule) (online at www.federalregister.gov/documents/2021/05/10/2021-08888/medicare-program-hospital-inpatient-prospective-payment-systems-for-acute-care-hospitals-and-the).

² Department of Health and Human Services, Office of Inspector General, *Review of OneLegacy's Reported Fiscal Year 2006 Organ Acquisition Overhead Costs and Administrative and General Costs* (Jan. 2010) (online at <https://oig.hhs.gov/oas/reports/region9/90800033.pdf>); Department of Health and Human Services, Office of Inspector General, *Review of California Transplant Donor Network's Reported Fiscal Year 2007 Organ Acquisition Overhead Costs and Administrative and General Costs* (Oct. 2010) (online at <https://oig.hhs.gov/oas/reports/region9/90900087.pdf>).

³ House Committee on Oversight and Reform, Subcommittee on Economic and Consumer Policy, *Hearing on the Urgent Need to Reform the Organ Transplantation System to Secure More Organs for Waiting, Ailing, and*

Medicare funds reimbursed you for these executive perks, it would be inappropriate and potentially unlawful.⁴ Nevada Donor Network bears a responsibility to the public to use the Medicare funds paid to it to serve its public mission of securing more organs for transplant.

Nevada Donor Network, like each OPO, files an annual cost report with the Centers for Medicare and Medicaid Services (CMS) that outlines the OPO's expenses for reimbursement. This cost report is used to calculate the theoretical average cost for acquiring one organ for transplant, the "Standard Acquisition Charge" (SAC), which is calculated separately for each organ (kidney, liver, heart, lung, etc.). Transplant centers pay OPOs the SAC when organs are delivered for transplant operations, and Medicare reimburses transplant centers for the SAC for all organs that are transplanted into Medicare beneficiaries.⁵

Since Medicare is the payer for a large number of organ transplant operations, including over 50% of kidney transplants, taxpayers pay for much of the SAC fees received by OPOs. When OPOs include additional costs and inflate the SAC, taxpayers foot the bill.⁶

Medicare also pays OPOs directly for some expenses reported on their cost reports. For example, Medicare pays OPOs for 100% of reported kidney acquisition costs, after subtracting the amount received from transplant centers for those kidneys. Medicare also reimburses the OPO for 100% of reasonable costs for certain tests they conduct to match organ donors to organ recipients.⁷

OPOs roll up into the SAC various indirect costs related to their operations. These may include salaries and costs for procurement coordinators, education of hospital personnel and physicians, and public education campaigns. A wide variety of other overhead costs—including depreciation, leases, rent, utilities, maintenance, housekeeping, and other "general overhead costs"—are also routinely allocated to organ acquisition and the OPOs' other business lines.⁸

Dying Patients (May 4, 2021) (online at <https://oversight.house.gov/legislation/hearings/the-urgent-need-to-reform-the-organ-transplantation-system-to-secure-more>).

⁴ See, e.g., Department of Health and Human Services, Office of Inspector General, *Review of California Transplant Donor Network's Reported Fiscal Year 2007 Organ Acquisition Overhead Costs and Administrative and General Costs* (Oct. 2010) (online at <https://oig.hhs.gov/oas/reports/region9/90900087.pdf>).

⁵ Centers for Medicare and Medicaid Services, *Medicare Program*, 86 Fed. Reg. 25070 (May 10, 2021) (proposed rule) (online at www.federalregister.gov/documents/2021/05/10/2021-08888/medicare-program-hospital-inpatient-prospective-payment-systems-for-acute-care-hospitals-and-the).

⁶ *Id.* Based on a "decades-old presumption" that most transplant recipients are Medicare beneficiaries, Medicare has been paying for organ acquisition costs that are not actually transplanted into Medicare beneficiaries. In a recent proposed rule, CMS found that OPOs can easily verify through central organ tracking databases or other means whether or not an organ actually is transplanted into a Medicare beneficiary. The rule will require OPOs to "accurately count and report Medicare usable kidneys" on their cost reports "to ensure that costs to acquire Medicare usable kidneys are accurately allocated to Medicare. *Id.*

⁷ *Id.*

⁸ Centers for Medicare and Medicaid Services, *Medicare Provider Reimbursement Manual, Part 2, Chapter 33: Organ Procurement & Histo Lab (Form CMS 216-94, Instructions & Specifications)* (Jan. 5, 2021) (HHS-0938-F-3139) (online at www.hhs.gov/guidance/document/provider-reimbursement-manual-part-2-2-pub-15-2-chapter-33-t8-organ-procurement-histo-lab).

Among the overhead costs that are partially allocated to organ acquisition and the SACs are “administrative and general expenses.” These include executive compensation and administrators’ salaries, fees for lawyers and accountants, technical infrastructure (data and telephone), advertising and promotion, travel for meetings and seminars, and employee professional education.⁹

This “administrative and general” category has been abused by OPOs to cover lavish executive perks. Multiple audits by the Office of Inspector General (OIG) for the Department of Health and Human Services (HHS) have found violations of Medicare policies, unreasonable costs allocated to organ acquisition, and significant overcharges to Medicare.¹⁰

One HHS OIG audit concluded that OneLegacy in Los Angeles and its CEO Thomas Mone overcharged Medicare by hundreds of thousands of dollars in one year alone. In their review of just \$3.1 million of overhead and “administrative and general” costs, the auditors found that over \$500,000, or nearly 17% of the audited costs, were inappropriately invoiced to Medicare. Of this, \$290,968 went to prohibited expenses, including “costs incurred for the Rose Parade, deferred compensation, donations and gifts, lobbying, meals, and entertainment,” and \$240,492 had insufficient documentation to support charging Medicare. The total ultimate cost to taxpayers for these prohibited and unjustified expenses was \$296,502.¹¹

The HHS OIG conducted a review of a different OPO, California Transplant Donor Network, auditing less than 10% of that OPOs’ overhead and administrative and general costs for one year. In that sample, the auditors found \$65,912 of prohibited costs that “were not related to patient care or did not comply with other Medicare requirements,” including donations and gifts, entertainment, lobbying, and meals. For instance, the OPO spent \$5,000 on a charitable gala that included gourmet food, exotic drinks, and a jazz show. The OPO spent \$18,967 on an executive’s retirement party with catering for 300 guests; Medicare was billed \$9,620 for that event.¹²

Waste of taxpayer money is not limited to frivolous spending on OPO executives and employees. OPOs also have allowed expenses legitimately connected to patient care to spiral out of control, and they pass these excessive costs on through the SACs. CMS has found that some

⁹ *Id.*

¹⁰ Department of Health and Human Services, Office of Inspector General, *Review of Organ Acquisition Costs Claimed by Certified Transplant Centers* (Sept. 2006) (online at <https://oig.hhs.gov/oas/reports/region9/90500034A.pdf>); Department of Health and Human Services, Office of Inspector General, *LifeCenter Northwest Did Not Fully Comply with Medicare Requirements for Reporting Organ Statistics in Its Fiscal Year 2009 Medicare Cost Report* (Nov. 2012) (online at <https://oig.hhs.gov/oas/reports/region9/91102039.pdf>).

¹¹ Department of Health and Human Services, Office of Inspector General, *Review of OneLegacy’s Reported Fiscal Year 2006 Organ Acquisition Overhead Costs and Administrative and General Costs* (Jan. 2010) (online at <https://oig.hhs.gov/oas/reports/region9/90800033.pdf>).

¹² Department of Health and Human Services, Office of Inspector General, *Review of California Transplant Donor Network’s Reported Fiscal Year 2007 Organ Acquisition Overhead Costs and Administrative and General Costs* (Oct. 2010) (online at <https://oig.hhs.gov/oas/reports/region9/90900087.pdf>).

“hospitals are charging OPOs amounts that are in excess of reasonable costs for services” related to donation, including one hospital that charged its OPO *over 17 times* its actual costs.¹³

On May 10, 2021, CMS published a proposed rule, citing this Subcommittee’s “inquiries into OPO financial mismanagement,” that will rein in some of this abuse by clarifying and codifying some policies to achieve “more accurate payment based on reasonable cost principles.”¹⁴

Taxpayers Contribute to Nevada Donor Network’s Executive Perks and Compensation

During the Subcommittee’s May 4, 2021, hearing, Chairman Krishnamoorthi questioned you about Nevada Donor Network’s spending on activities unrelated to its core mission of obtaining organs for transplant. You admitted that Nevada Donor Network has purchased season tickets to the Las Vegas Raiders football team and the Las Vegas Golden Knights hockey team and has spent on lavish weekend board retreats to the Sonoma and Napa Valleys.¹⁵

The Subcommittee has reviewed Nevada Donor Network’s cost reports submitted to CMS from 2014 to 2019. The OPO’s season tickets to professional sports games and board retreats to California wine country do not *directly* appear anywhere on the cost reports. We seek to determine whether they may be hidden in one of the cost reports’ broad categories for overhead or general and administrative expenses.

The cost reports themselves do not fully disclose the nature of the expenditures that are being charged to Medicare. Each year, Nevada Donor Network reports millions of dollars in “Administrative & General” expenses. Within the category of “Other Administrative and General,” Nevada Donor Network lists a sub-category, “A&G”—which appears to stand for “Administrative & General.” We are concerned about which expenses are included in this vague catch-all category, and whether it is being used to hide expenditures that would raise questions if fully disclosed on a cost report.

We are also interested in understanding what professional education Nevada Donor Network considers appropriate to include within organ acquisition cost overhead. Medicare pays for approximately half of these costs each year, and, between 2014 and 2019, Nevada Donor Network invoiced Medicare for approximately \$3.75 million for professional education expenses.

¹³ Centers for Medicare and Medicaid Services, *Medicare Program*, 86 Fed. Reg. 25070 (May 10, 2021) (proposed rule) (online at www.federalregister.gov/documents/2021/05/10/2021-08888/medicare-program-hospital-inpatient-prospective-payment-systems-for-acute-care-hospitals-and-the).

¹⁴ *Id.*

¹⁵ House Committee on Oversight and Reform, Subcommittee on Economic and Consumer Policy, *Hearing on the Urgent Need to Reform the Organ Transplantation System to Secure More Organs for Waiting, Ailing, and Dying Patients* (May 4, 2021) (online at <https://oversight.house.gov/legislation/hearings/the-urgent-need-to-reform-the-organ-transplantation-system-to-secure-more>).

Lastly, we note that you and your executives are highly compensated, and taxpayers cover much of this executive compensation. Between 2017 and 2019, you, as CEO, earned a total of \$1,308,025 (\$379,070 in 2017; \$455,889 in 2018; and \$473,066 in 2019). Through Medicare, taxpayers paid at least \$517,000 for this compensation. The two other highest-paid executives at Nevada Donor Network, the Medical Director and the Chief Financial Officer, respectively earned \$1,373,225 and \$846,295 over this same time period.

A chart illustrating some of these expenses from 2014 to 2019 that were covered by Medicare is produced below. These are only the kidney and lab-testing costs that are directly reimbursable by Medicare. The total cost to the taxpayer could be much greater, after Medicare reimburses transplant centers for the SACs that include OPOs’ bundled overhead, administrative, and general expenses. The possibility that Medicare, and consequently the public, is paying for excessive costs unrelated to organ procurement is inexcusable.

Year	Total Administrative and General Expenses		Uncategorized Portion of Administrative and General Expenses (labeled as “A&G”)		Professional Education Expenses (Within Organ Acquisition Overhead)	
	Total Reported	Amount Invoiced to Medicare	Total Reported	Amount Invoiced to Medicare	Total Reported	Amount Invoiced to Medicare
2019	\$5,901,922	\$2,388,304	\$576,081	\$233,120	\$2,270,875	\$1,181,469
2018	\$5,572,187	\$2,023,381	\$453,649	\$164,730	\$1,606,125	\$777,365
2017	\$4,984,684	\$1,925,060	\$510,945	\$197,324	\$1,575,871	\$837,059
2016	\$4,468,767	\$1,602,736	\$525,748	\$188,561	\$1,388,956	\$694,478
2015	\$3,931,879	\$1,427,097	\$267,549	\$97,108	\$1,146,005	\$580,683
2014	\$3,285,020	\$1,255,624	\$406,127	\$155,233	\$752,553	\$389,796
TOTAL Medicare Coverage for Expense Category		\$10,622,203		\$1,036,077		\$4,460,849

Lastly, we question whether, in violation of Medicare policy, Nevada Donor Network has been getting reimbursed for kidneys that were transplanted into patients who were not Medicare beneficiaries. Medicare is only supposed to pay for kidney acquisition costs for organs that are transplanted into Medicare beneficiaries. In a proposed rule published on May 10, 2021, CMS found that many OPOs have been charging the government for kidneys not covered by Medicare, and it has proposed a requirement for OPOs to verify and accurately report the Medicare beneficiary status of transplant recipients.¹⁶ Of the 1,174 viable kidneys reported by Nevada

¹⁶ Centers for Medicare and Medicaid Services, *Medicare Program*, 86 Fed. Reg. 25070 (May 10, 2021) (proposed rule) (online at www.federalregister.gov/documents/2021/05/10/2021-08888/medicare-program-hospital-inpatient-prospective-payment-systems-for-acute-care-hospitals-and-the).

Donor Network from 2014 to 2019, every single one of them was charged to Medicare—a highly unlikely coincidence.

Nevada Donor Network’s Partnership with Origin Biologics

You were asked at the May 4, 2021, hearing about possible conflicts of interest involving a tissue processor in Nevada called Origin Biologics. You were asked whether “directly or individually, you personally have an ownership interest in Origin Biologics.” You paused for a moment and then replied, “Me personally, that is incorrect.” You also denied having “any prospective conflict of interest with Origin Biologics or any other organization.”

Your responses were misleading, since you omitted pertinent and highly relevant information that Nevada Donor Network *does* have an ownership interest in Origin Biologics. An Origin Biologics press release from November 2018 announced that Origin Biologics is a “joint venture” between Nevada Donor Network and Australian Biotechnologies, and that Origin Biologics was planning on building a local tissue processing facility in Nevada.¹⁷ This “joint venture” and your lack of forthrightness about it at the hearing raise concerns about conflicts of interest in carrying out your primary public mission to secure more organs for transplant.

To assist the Subcommittee in its ongoing oversight of OPOs, please provide the following documents and information by June 10, 2021.

1. An itemized list of all expenses for each category of expenses reported on CMS cost reports for each year from 2016 to 2020, including itemized expenses for any “administrative and general” categories, such as those referenced in Worksheet A-1 of the CMS cost report;
2. A detailed description of all reclassifications and adjustments to expenses reflected on Worksheets A-4 and A-5 of the CMS cost reports for each year from 2016 to 2020;
3. In relation to season tickets for the Las Vegas Raiders and Las Vegas Golden Knights:
 - a. all contracts, agreements, invoices, receipts, and other documents memorializing the purchase and use of tickets, and any other associated spending, including food and drink;
 - b. any policies and/or procedures regarding the use of the tickets by employees or others;

¹⁷ Origin Biologics, *Press Release: Nevada’s First Tissue Processing Facility Brings Opportunity of Hope and Healing to More Nevadans* (Nov. 19, 2018) (online at www.originbio.com/wp-content/uploads/2018/11/Origin-Bio-Press-Release-FULL-Final.pdf).

- c. a list of everyone who used the tickets, and which events they attended; and
 - d. a complete explanation of how expenses associated with tickets and other spending at the stadiums were allocated to expense categories in CMS cost reports;
4. All documents referring or related to any retreat, including the 2018 retreat to Sonoma and the 2019 retreat to Napa Valley, including:
 - a. lists of attendees, including guests of employees;
 - b. itemized lists of all costs, including transportation, hotels, food, and recreational activities;
 - c. any trip itineraries and agendas; and
 - d. any information provided to employees or others on guidance for the trips;
5. All policies and procedures reflecting Nevada Donor Network's process for identifying whether transplant recipients are Medicare beneficiaries and reporting the number of organs transplanted into Medicare beneficiaries on its CMS cost reports, as well as a list of all organs for transplant procured by Nevada Donor Network from 2016 to 2020, including the UNOS ID, the transplant center, the SAC received, whether the recipient is a Medicare beneficiary, and all other information (except patient-identifying information) available about the organ through Organ Procurement and Transplantation Network; and
6. All documents regarding Nevada Donor Network's relationship with Origin Biologics, including:
 - a. documents identifying any direct or indirect ownership interest that Nevada Donor Network, or any of its executives, employees, or board members, holds in Origin Biologics;
 - b. all contracts, agreements, or governance documents concerning the establishment of Origin Biologics and the relationships of Nevada Donor Network to Origin Biologics and Australian Biotechnologies;
 - c. all Nevada Donor Network board materials, including agendas, minutes, reports, plans, analyses, and presentations, referring or relating to Australian Biotechnologies, Origin Biologics, or the joint venture to build a tissue processing plant; and
 - d. an itemized list of all Nevada Donor Network expenses related to the conception, planning, and realization of its joint venture with Australian

Biotechnologies resulting in Origin Biologics, including costs related to any meetings with Australian Biotechnologies, including travel or hosting.

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. An attachment to this letter provides additional instructions for responding to the Subcommittee’s request. If you have any questions regarding this request, please contact Subcommittee staff at (202) 225-5051.

Sincerely,



Raja Krishnamoorthi
Chairman
Subcommittee on Economic and
Consumer Policy



Katie Porter
Member
Subcommittee on Economic and
Consumer Policy

Enclosure

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

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.