



United States Government  
**NATIONAL LABOR RELATIONS BOARD**  
OFFICE OF THE GENERAL COUNSEL  
Washington, DC 20570  
[www.nlr.gov](http://www.nlr.gov)

AUG 03 2011

July 26, 2011

The Honorable Darrell Issa, Chairman  
Committee on Oversight and Government Reform  
House of Representatives  
2157 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Issa:

I write in response to your July 12, 2011 letter concerning the Committee's request for documents related to Case No. 19-CA-032431 ("The Boeing case"). The Office of the General Counsel has previously supplied the Committee with a number of relevant public documents concerning this ongoing enforcement action, now pending before an administrative law judge. In addition, the Acting Deputy General Counsel, Celeste J. Mattina, and I have previously replied to your inquiries about communications between the Office of the General Counsel and the White House, as well as between the Office of the General Counsel and the National Labor Relations Board, about the Boeing case, by indicating that there have been none. We have repeatedly offered to provide the Committee with a substantial amount of additional documentary information, including all hearing transcripts, exhibits, motions, orders, and post-hearing briefs. I continue to believe that this offer is responsive to your request and properly balances the Committee's legitimate informational needs with our legitimate needs to safeguard the due process rights of the parties and maintain the integrity of the ongoing legal proceeding. Therefore, I respectfully ask that you reconsider our request to apply your June 17 ruling at the South Carolina hearing to our production of documents, which would allow the Committee to have access to requested information as soon as it becomes available to the parties and the administrative law judge at the hearing.

On May 12, you sent me an oversight request regarding the Boeing case.<sup>1</sup> The request sought "[a]ll documents and communications referring or relating to the Office of the General Counsel's investigation of Boeing, including but not limited to all communications between the Office of the General Counsel and the National Labor Relations Board," and communications between the Agency and Boeing and the Machinists.<sup>2</sup> Acting Deputy General Counsel Celeste J. Mattina replied to this oversight

<sup>1</sup> Letter from Reps. Darrell Issa, Dennis Ross, and Trey Gowdy to Lafe E. Solomon, Acting General Counsel, National Labor Relations Board (May 12, 2011).

<sup>2</sup> *Id.*

request on May 27.<sup>3</sup> The response expressed our concern that the disclosure of documents and information not available to both Boeing and the Machinists could result in an unfair advantage to one party over another and risk harm to the integrity of the Agency's legal process. The response also provided the Committee with documents that contained the facts and legal theories of our case, and informed the Committee that there are no documents constituting or recording communications between the Office of the General Counsel and the National Labor Relations Board related to the Boeing matter. Finally, the response offered to provide the Committee with copies of the transcripts and exhibits from the hearing contemporaneous with their availability, as well as copies of all post-hearing briefs filed.

On May 26, you sent me a letter requesting my testimony at a Committee hearing on Friday, June 17, in North Charleston, South Carolina.<sup>4</sup> The letter stated the purpose of the hearing was to explore the NLRB's decision to file a complaint against Boeing for alleged violations of federal labor law. On June 3, I respectfully declined your invitation, advising that my appearance at the Committee hearing could threaten the rights of Boeing and the Machinists to a fair trial before the administrative law judge.<sup>5</sup> On June 7, you requested that I reconsider your invitation to testify at the Committee hearing in South Carolina.<sup>6</sup> You acknowledged the due process rights of the parties to the Boeing case, but expressed your view that my testimony before the Committee did not jeopardize those rights because the hearing did not "concern [my] decision-making strategy or [my] legal strategy." I responded on June 10, reiterating the concerns I had previously expressed, and offering to have Associate General Counsel Richard Siegel, who was not involved in the determination of the merits of this case, testify in the hearing, in a further attempt to meet the needs of the Committee without adversely impacting the rights of the litigating parties or unduly interfering with an enforcement action. On June 14, you rejected all of my offers and insisted upon my presence at the hearing.<sup>7</sup>

On June 17, I reluctantly appeared, under threat of subpoena, to testify at the Committee hearing in South Carolina. After discussion among Committee members, and prior to the acceptance of any testimony, you ruled that "[a]ny item which is not discoverable by the defendant, will be considered out of bounds for any question."<sup>8</sup> In

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<sup>3</sup> Letter from Celeste J. Mattina, Acting Deputy General Counsel, National Labor Relations Board, to Reps. Darrell Issa, Dennis Ross, and Trey Gowdy (May 27, 2011).

<sup>4</sup> Letter from Rep. Darrell Issa to Lafe E. Solomon, Acting General Counsel, National Labor Relations Board (May 26, 2011).

<sup>5</sup> Letter from Lafe E. Solomon, Acting General Counsel, National Labor Relations Board, to Rep. Darrell Issa (June 3, 2011).

<sup>6</sup> Letter from Rep. Darrell Issa to Lafe E. Solomon, Acting General Counsel, National Labor Relations Board (June 7, 2011).

<sup>7</sup> Letter from Rep. Darrell Issa to Lafe E. Solomon, Acting General Counsel, National Labor Relations Board (June 14, 2011).

<sup>8</sup> *Field Hearing on Unionization and Regulation Issues as It Relates to the National Labor Relations Board's Complaint against Boeing; Hearing before the House Oversight and Government Reform Committee*, 112th Cong. (2011) (excerpts from unofficial transcript) (although the Agency has requested the official transcript from the Committee, it is not yet available).

other words, you concluded that it would be inappropriate for Committee members to ask me to provide information not yet available to Boeing. As a result of the ruling, the hearing continued with a reduced risk of harm to the due process rights of the litigants.

On June 29, I sent additional documents for the Committee's review, accompanied by a cover letter wherein I expressed my view that your ruling at the June 17 Committee hearing "strikes an appropriate and fair balance between the Committee's legitimate informational needs and the Agency's legitimate need to secure the due process rights of the parties to a fair trial" and stated that "extending the application of your ruling to the document request would continue to ensure fairness to the litigants."<sup>9</sup> Responding on July 12, you rejected my view that your approach at the South Carolina hearing, which limits production of information to that which is discoverable by Boeing in order to protect the due process rights of the litigants to the case, was the fairest way to proceed.<sup>10</sup>

It remains my belief that premature disclosure of the Boeing case file would severely impact the parties' due process rights and the Agency's legal processes. You have asserted that these concerns are overcome by the Committee's need to assess the claims made by Boeing that the complaint issued against it is "legally frivolous."<sup>11</sup> Indeed, Boeing, in its Motion to Dismiss, contended to Administrative Law Judge Clifford Anderson that the complaint was legally frivolous. Administrative Law Judge Anderson has denied that Motion, thus supporting my position that the Boeing complaint has legal merit.<sup>12</sup> This ruling has come at an early stage of the ongoing legal proceeding. Clearly, Boeing has a right to continue to challenge our facts and legal theories throughout the legal process and will be afforded the due process protections prescribed by Congress at every step of the proceeding. The documents related to Judge Anderson's decision have been previously provided to the Committee. The documents are noteworthy because they clearly demonstrate the correctness of your June 17 ruling. They demonstrate that the Agency can satisfy the Committee's need for information by continuing to provide documents consistent with that ruling.

The Agency's interests are both clear and critical: to safeguard the rights of the parties to the case and maintain the integrity of the Agency's legal process. We were therefore in agreement when you ruled at the hearing in South Carolina that it would be inappropriate for Committee members to ask me to provide information not yet available to Boeing.

With all due respect, we urge you to continue to apply the above ruling as it relates to documents involving the Boeing case. We frankly find no rationale for distinguishing information provided to the Committee in the form of testimony from

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<sup>9</sup> Letter from Lafe E. Solomon, Acting General Counsel, National Labor Relations Board, to Rep. Darrell Issa (June 29, 2011).

<sup>10</sup> Letter from Rep. Darrell Issa to Lafe E. Solomon, Acting General Counsel, National Labor Relations Board (July 12, 2011).

<sup>11</sup> *Id.*

<sup>12</sup> See Resp.'s Mot. To Dismiss and Strike Injunctive Relief, AGC's Opposition to Resp.'s Motion to Dismiss and Strike, ALJ Ruling on Resp. to Motion to Dismiss.

information provided to the Committee in the form of documents. Rather, the framework that you established at the hearing remains necessary as long as this legal proceeding remains active while the Committee is conducting oversight.

Your July 12 letter seeks the following three broad categories of "documents and information" attendant to the Boeing case: intra-Agency and external documents and communications related to the underlying investigation; communication logs and messages pertaining to dealings between Agency personnel and the Machinists; and communication logs and messages pertaining to dealings between Agency personnel and Boeing. These three broad categories duplicate, in large part, the information sought by Boeing in its Subpoena Duces Tecum B-647901, served upon Counsel for the Acting General Counsel in the ongoing proceeding. Specifically, Boeing's information requests 1, 2, 5 through 17, and 23 (set forth on pages 5 through 9 of its subpoena), which were attached as Exhibit A to our petition to revoke the subpoena and provided to the Committee on June 29, 2011, explicitly encompass those documents sought by the Committee.

Notably, Administrative Law Judge Anderson denied the requests made by Boeing for substantially the same information you are also seeking. He properly determined that it is not appropriate for Boeing to have the documents that it seeks at this point in the process since it is tantamount to pre-trial discovery, which is not afforded to litigants in NLRB proceedings. He cited two cases (*Red Way Carriers*, 274 NLRB 1359, 1371 (1985), and *Ross M. Madden v. HOD Carriers Local 41*, 277 F.2d 688 (7<sup>th</sup> Cir. 1960), cert. denied, 364 U.S. 863 (1961)) in his ruling regarding the appropriateness of protecting Agency documents, and was clear that precedent dictates that the proper way to test the quality of the investigation is through the trial process. Indeed, he agreed that it is inappropriate for such information to be prematurely disclosed, rather than as evidence is made available by the parties through the litigation process. The only exception to his ruling related to information dealing with expert witnesses, which is not part of the investigatory file, wherein he ordered that the parties exchange that information should it exist.

Administrative Law Judge Anderson's ruling demonstrates why the disclosure of information to the Committee prior to the time when it is appropriate for the parties to have it, and for him to consider it, risks harm to the right of the parties to a fair trial. Consistent with this, I reiterate my offer to provide you with all record evidence, including Administrative Law Judge Anderson's rulings, as it becomes available. Further, as you know, under the rules of the House of Representatives, any document that we produced to the Committee is a "committee record."<sup>13</sup> As such, each Member of the House of Representatives has a right to access those documents. For all practical purposes, documents that Administrative Law Judge Anderson has ruled should not be available to the parties at this time would therefore be exposed to all 435 Members of the House of Representatives should we prematurely produce them pursuant to your request. No assurances have been given that all Members with access to these documents will keep them confidential, consistent with Administrative Law Judge

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<sup>13</sup> Rules of the House of Representatives, Rule XI, clause 2, § 794(e)(2)(A).



Anderson's ruling. Any disclosure of this information would undermine the due process rights of the litigants, the administrative law judge's ability to effectively preside over the case, and the integrity of the hearing now under way.

For the reasons outlined above, I respectfully request that you reconsider your decision not to apply your June 17 ruling to our ongoing production of documents to the Committee. To be clear, allowing us to produce documents to the Committee consistent with your June 17 ruling does not mean that the Committee will not have access to the documents it seeks. Rather, it means that the Committee will have access to the requested information contemporaneously with its availability to the parties in the pending litigation. On the other hand, the issuance of a subpoena in an attempt to obtain the requested documents of an open and ongoing enforcement proceeding would severely undermine the integrity of the ongoing legal proceeding and cause serious damage to the due process rights of the parties to that proceeding.

If you have other specific questions about the case, we would be happy to work with you to accommodate your legitimate needs without compromising our mutual interest in preserving the rights of the parties. Please do not hesitate to contact Jose Garza, Special Counsel for Congressional and Intergovernmental Affairs, at 202-273-3700, if you wish to discuss this matter further.

Sincerely,

A handwritten signature in black ink, appearing to read "Lafe E. Solomon". The signature is fluid and cursive, with the first name "Lafe" being more prominent.

Lafe E. Solomon  
Acting General Counsel

cc: The Honorable Elijah E. Cummings, Ranking Minority Member  
Committee on Oversight and Government Reform

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LAWRENCE J. BRADY  
STAFF DIRECTOR

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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WASHINGTON, DC 20515-6143

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July 12, 2011

Mr. Lafe E. Solomon  
Acting General Counsel  
National Labor Relations Board  
1099 14<sup>th</sup> Street, NW  
Washington, D.C. 20570-0001

Dear Mr. Solomon:

As you are aware, the Committee on Oversight and Government Reform is investigating the decision by the National Labor Relations Board (NLRB) to file a Complaint against the Boeing Company (Boeing) for alleged unfair labor practices under the National Labor Relations Act (NLRA).<sup>1</sup> Pursuant to our investigation, on May 12, 2011, the Committee asked you to provide, among other things, documents relating to the Office of General Counsel's investigation of Boeing.<sup>2</sup> Committee staff have also met with your staff and reiterated our request. I appreciate the documents you produced on May 27, 2011, and June 29, 2011; however, production of the various motions filed in the case and hearing transcripts do not comply with the entirety of the request. Therefore, your responses are incomplete.

Your May 27, 2011, letter broadly claims, without support, that the documents requested are "confidential and privileged information, internal deliberative materials, attorney work product, and settlement communications."<sup>3</sup> However, it is the practice of the U.S. House of Representatives, grounded in Congress' constitutional power to investigate, to leave to the congressional committee to decide whether claims of privilege, deliberative process, and attorney work product will be accepted.<sup>4</sup> For the reasons outlined below, the Committee respectfully declines the claims of privilege. Further, your June 29, 2011, letter indicates that you believe a ruling that I made at the Committee's hearing on June 17, 2011, pertaining to questions that would be asked of

<sup>1</sup> See Letter from Reps. Darrell Issa, Dennis Ross, and Trey Gowdy to Lafe E. Solomon, Acting General Counsel, National Labor Relations Board (May 12, 2011).

<sup>2</sup> *Id.*

<sup>3</sup> Letter from Celeste J. Mattina, Acting Deputy General Counsel, National Labor Relations Board to Reps. Darrell Issa, Dennis Ross, and Trey Gowdy (May 27, 2011).

<sup>4</sup> CRS Report 95-464, Investigative Oversight: An Introduction to the Law, Practice and Procedure of Congressional Inquiry, by Morton Rosenberg.

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you at the hearing, should be extended to the Committee's document request.<sup>5</sup> The ruling you reference was specifically for the purposes of questioning at the hearing, and it does not extend to the document request.

I appreciate the seriousness you give to the due process rights of litigants. As I have previously expressed to you, I too respect these rights. However, it has been recognized that the rights of litigants can be preserved "without having any adverse effect upon the legitimate exercise of the investigative power of Congress."<sup>6</sup> Moreover, there is no legal authority to support your position that the transmission of documents or information to this Committee violates these rights,<sup>7</sup> and your reliance on *ATX Inc. v. U.S. Department of Transportation*,<sup>8</sup> to stand for that proposition is misplaced. The facts of that case are not related to a document request by a congressional committee. Instead, the facts concern letters sent from Members of Congress to the Secretary of Transportation that asked the Secretary to deny an applicant's petition to operate an airline.<sup>9</sup> The facts also involve the testimony of a Member of Congress before an Administrative Law Judge that expressed the same position regarding the petition.<sup>10</sup> The court held that those facts neither "created an appearance of impropriety nor actually affected the outcome of the agency action at issue."<sup>11</sup> The court discussed that "the proper focus is not on the content of congressional communications in the abstract, but rather upon the relation between the communications and the adjudicator's decision-making process."<sup>12</sup> Here, the Committee is concerned with what transpired *before* the Complaint was filed; receipt of such documents does not affect a decision-making process.

Deliberative process privilege can permit government agencies to withhold documents related to agency policies *from the courts*. Federal agencies also attempt to cite it as a reason to withhold documents from Congress. However, the D.C. Circuit has held that deliberative process privilege is a common law privilege that can be overcome by a showing of need.<sup>13</sup> Here, in order to fulfill the Committee's constitutional obligation to conduct oversight to determine whether the NLRB is properly carrying out its mandate under the NLRA and, in turn, using taxpayer dollars appropriately, the Committee needs all the documents requested. Further, any concern that documents provided to the Committee will waive a future claim of privilege is unwarranted. For example, in *Murphy v. Department of the Army*,<sup>14</sup> the court held that a memorandum withheld by the

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<sup>5</sup> See Letter from Lafe E. Solomon, Acting General Counsel, National Labor Relations Board to Reps. Darrell Issa, Dennis Ross, and Trey Gowdy (June 29, 2011).

<sup>6</sup> *Pillsbury Co. v. F.T.C.*, 354 F.2d 952, 964 (5th Cir. 1966).

<sup>7</sup> See CRS Memorandum, *Application of Pillsbury Doctrine to Congressional Oversight Inquires*, by Todd Tatelman (May 2011).

<sup>8</sup> *ATX, Inc. v. U.S. Dept. of Transp.*, 41 F.3d 1522 (D.C. Cir. 1994).

<sup>9</sup> *Id.* at 1524-26.

<sup>10</sup> *Id.* at 1524.

<sup>11</sup> *Id.* at 1527.

<sup>12</sup> *Id.*

<sup>13</sup> See, e.g., *In re Sealed Case (Espy)*, 121 F.3d 729 (D.C. Cir. 1997).

<sup>14</sup> *Murphy v. Dep't of Army*, 613 F.2d 1151, 1159 (D.C. Cir. 1979).

Department of Army from the plaintiff did not lose its deliberative process privilege by reason of its disclosure to a Member of Congress, even absent an express understanding that the document would remain confidential.

Attorney-client privilege is a judicially-developed policy intended to foster client confidence and encourage full disclosure to an attorney in anticipation of an adversarial setting.<sup>15</sup> However, the need to protect this interest in an investigative setting where a congressional committee is not adjudicating the liberty or property interests of a witness is less compelling.<sup>16</sup> Accordingly, courts have recognized that “only infrequently have witnesses appearing before congressional committees been afforded the procedural rights normally associated with an adjudicative proceeding.”<sup>17</sup> Therefore, attorney-client privilege claims can be overcome by Congress.

Finally, the claim that these materials are privileged attorney work product is also unsubstantiated. Work product claims are invoked by parties in a litigation proceeding.<sup>18</sup> As a congressional committee conducting oversight, the Committee is not involved in such a proceeding. Further, courts have recognized that work product is a qualified privilege which may also be defeated by a sufficient showing of need.<sup>19</sup>

The concept that the investigative power of the legislative branch of government is bound by non-constitutional, common law rules developed by the judicial branch is contrary to the concept of separation of powers.<sup>20</sup> As there is no basis to withhold the outstanding documents, I again request the following documents and information for the time period from January 1, 2009 to present:

- 1) All documents and communications referring or relating to the Office of General Counsel’s investigation of Boeing, including but not limited to all communications between the Office of General Counsel and the National Labor Relations Board. To clarify, this would include, but is not limited to, all documents and communications between anyone in the Executive Office of the President, other federal agencies, or Member of Congress and the Office of General Counsel or the National Labor Relations Board referring or relating to the International Association of Machinists charge against Boeing or the Office of General Counsel’s investigation of Boeing.

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<sup>15</sup> CRS Report 95-464, *Investigative Oversight: An Introduction to the Law, Practice and Procedure of Congressional Inquiry*, by Morton Rosenberg.

<sup>16</sup> *Id.*

<sup>17</sup> *Hannah v. Larche*, 363 U.S. 420, 445 (1960).

<sup>18</sup> Fed. Rules Civ. Pro. 26(b)(3).

<sup>19</sup> See *Kirkland v. Morton Salt Co.*, 46 F.R.D. 28, 30 (N.D. Ga. 1968).

<sup>20</sup> CRS Report 95-464, *Investigative Oversight: An Introduction to the Law, Practice and Procedure of Congressional Inquiry*, by Morton Rosenberg.



Mr. Lafe Solomon

July 12, 2011

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- 2) All documents, including emails and call logs, and communications between anyone in the Office of General Counsel or the National Labor Relations Board and the International Association of Machinists.
- 3) All documents, including emails and call logs, and communications between the Office of General Counsel or the National Labor Relations Board and any representative(s) of the Boeing Company.

If the entirety of the documents requested are not received by 5:00 p.m. on July 26, 2011, the Committee will be required to consider the use of the compulsory process. When producing documents to the Committee, please deliver production sets to the Majority Staff in room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X. An attachment to this letter provides additional information about responding to the Committee's request.

If you have any questions about this request, please contact Kristina Moore or Kristin Nelson of the Committee Staff at 202-225-5074. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Darrell Issa', written over a horizontal line.

Darrell Issa  
Chairman

Enclosure

Cc: The Honorable Elijah E. Cummings, Ranking Member

ONE HUNDRED TWELFTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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### Responding to Committee Document Requests

1. In complying with this request, you should 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. You should also produce 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. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. 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.

6. 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, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.
7. 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 they were requested.
8. When you produce documents, you should identify the paragraph in the Committee's request to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full, compliance shall be made to the extent possible and shall include an explanation of why full compliance is not possible.
12. 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) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. 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, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. The time period covered by this request is included in the attached request. To the extent a time period is not specified, produce relevant documents from January 1, 2009 to the present.
16. 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.

17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents 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 2471 of the Rayburn House Office Building.
19. Upon completion of the document production, you should 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 which 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, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other 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, email, regular mail, telexes, releases, 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 which might



otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.

4. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.
5. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term "referring or relating," 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.