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ONE HUNDRED FIFTH CONGRESS

Congress of the United States

House of Representatives

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PROTOCOL FOR DOCUMENTS

This Protocol sets forth the procedures to be followed by the House Committee on Government Reform and Oversight ("the Committee"), and its Subcommittees, for obtaining, storing and releasing of documents and other materials.

Applicability and Interpretation of Protocol

This Protocol shall apply only to Committee and Subcommittee investigation of political fund-raising improprieties and possible violations of law by persons or entities within the Committee's oversight jurisdiction ("the Investigation") and to documents and materials ("documents") obtained during the Investigation by Committee subpoena or letter request. The Protocol shall not apply to any other oversight conducted by the Committee or any Subcommittee unless specifically adopted by decision of the Chairman or by vote of the Committee.

All employees and representatives of any government office, department or agency shall address to the Chairman of the Committee or his designated representative any inquiries, concerns or other communications relating to this Protocol and the matters addressed herein. No representation, commitment or practice by persons other than the Chairman or his designee concerning document-related matters are applicable to or binding on the Chairman.

A. Obtaining Documents

1. **Requests for Documents.** Document requests shall be made under the auspices of the Committee only as authorized by the Chairman on behalf of the Committee, or by the appropriate Subcommittee Chairman on behalf of any Subcommittee. Authorized requests may include the production of documents by agencies, entities, and/or individuals, by letter, facsimile, or other means.

(a) **Procedure for Document Requests** -- The Chairman of the full Committee or the Chairman of any Subcommittee, as the case may be, shall notify^{1/} the appropriate Ranking Minority Member of the intention to request, on behalf of the Committee or Subcommittee, the production of documents, and shall provide the Ranking Minority member an opportunity to suggest how the scope or substance of the proposed requests might be modified or improved. The Ranking Minority Member shall advise the Chairman whether the Minority will join in the request. Any agreed joint request will be issued by the Chairman and the Ranking Minority Member on behalf of the Committee, or Subcommittee, as appropriate. The request for documents may issue following the provision of notice to the Ranking Minority Member as provided herein. The Chairman retains the discretion to cause letter requests to be issued without the Minority's review or concurrence. Following issuance, copies of letter requests shall be provided to the Ranking Minority Member.

2. **Subpoenas for Documents or Witnesses.** A subpoena, whether from the full Committee or any Subcommittee, may be issued only with the express authorization of the Chairman, Committee or Subcommittee.

(a) **Procedure for Issuance of Subpoenas** -- The Chairman of the full Committee shall advise the appropriate Ranking Minority Member of his intention to issue subpoenas for documents or witnesses, and shall provide the Ranking Minority Member an opportunity to suggest how the scope or substance of the proposed subpoenas might be modified or improved. The Chairman shall notify the Ranking Minority Member of the proposed subpoenas at least twenty-four (24) hours before the Chairman issues the subpoenas, excluding Saturdays, Sundays and federal holidays, unless the provisions of Section A.2(b) apply. The Ranking Minority Member shall advise the Chairman whether the Minority agrees with the proposed subpoenas. For the purpose of deciding whether or not to issue document subpoenas, a Working Group consisting of the Chairman, the Ranking Minority Member, the Vice Chairman, a majority member chosen by the Chairman, and a minority member chosen by the Ranking Minority Member, shall be created. In the event that the Ranking Minority Member objects to the proposed subpoenas, the Chairman shall present the subpoenas to the Working Group for decision regarding the advisability of issuing the proposed subpoenas. The Working Group shall endeavor in good faith to reach consensus and shall render its opinion to the Chairman within twenty-four (24) hours of presentation of the subpoenas by the Chairman. The Working Group shall meet in person, or if a face-to-face meeting is not practicable, by telephone or conference call. If the Working Group is unable to reach timely consensus concerning the proposed subpoenas, the Working Group shall, upon motion of the Chairman, render an opinion by majority vote. The Chairman shall abide by the opinion rendered by the Working Group when deciding whether to issue a subpoena.

^{1/} The term "notify" as used in this Protocol means all communications, including those made by telephone, letter and telefax, between the Chairman and the Ranking Minority Member, the Subcommittee Chairmen and the appropriate Ranking Subcommittee Members, as well as contacts on their behalf by respective staff.

(b) **Issuance of Subpoenas Without Prior Notice** -- In accordance with long-standing rules of the Committee, the Chairman may cause a subpoena to be issued without prior notice to members of the Committee including the Ranking Minority Member if, in the Chairman's judgment, delay in issuance could hinder or compromise the Committee's ability to obtain documents or testimony in furtherance of the Committee's investigation. In such event, as soon after issuance as is practicable, the Chairman shall notify the Ranking Minority Member of the existence of subpoena.

B. Handling and Storage of Documents

All documents obtained by the Committee shall be handled and stored by Majority and Minority Investigative Staff in a manner consistent with the level of sensitivity of the documents. Documents shall be stored in a locked area ("the Secure Area") within the Majority and Minority Investigative Staff offices which, in the judgment of the Chairman, provide a secure environment for the storage, handling and review of such documents. The Committee may maintain documents at locations other than the Secure Areas provided that they are stored in secure facilities under the respective control of the Majority or Minority Investigative Staff. Subcommittees involved in the Investigation shall maintain a locked area within Subcommittee offices for the secure storage of documents. In recognition of office space limitations, this Protocol does not envision that Subcommittees will create and maintain separate areas similar to the Committee's Secure Area. Subcommittees will maintain and store documents in such other manner required to prevent unintended disclosure.

1. **Public Documents** -- "Public Documents" include all documents obtained by the Committee and any Subcommittee which are publicly available prior to the time they come into the possession of the Committee or Subcommittee, or which thereafter become publicly available as a result of disclosure by sources other than the Committee or Subcommittee. Since Public Documents are by definition already in the public domain, this Protocol shall not apply to such documents and materials.

2. **Non-Classified Documents** ^{2/} -- "Non-Classified Documents" include all documents obtained by the Committee, except "Public Documents" and "Classified Materials" as defined below. This category of documents includes non-sensitive documents, as well as those for which the possessing party asserts a claim that the documents contain proprietary, privileged, confidential or other sensitive information. All Non-Classified Documents will be maintained within the Secure Area, or such other secure facility as is necessary to prevent unintended disclosure. Non-Classified Documents will not be removed from such area(s) except as required in furtherance of the Committee's oversight and investigative responsibilities. In the event that an individual or entity in possession of documents asserts that some or all of the documents contain proprietary, privileged, confidential or other sensitive information, the Chairman will

^{2/} "Documents" includes originals and all copies made therefrom.

determine whether or not the claim is properly made and will so advise the individual or entity, and the Ranking Minority Member, in writing. Documents determined to contain proprietary, privileged, confidential or other sensitive information will be maintained by the Committee in *locked file cabinets* located within the Secure Area, or in such other secure facility as is required by the circumstances. Copies of all documents in the Committee's possession will be limited to the number required for the Committee's oversight and investigation functions. Subcommittees involved in the Investigation shall make such arrangements for the secure storage of Non-Classified Documents and materials in Subcommittee offices, or in such other secure facility as is necessary to prevent unintended disclosure.

3. **Classified Documents** -- "Classified Documents" are documents and materials containing "classified information" as defined by Title 50, United States Code, Section 438(2). Classified Documents shall be maintained by the Committee in a *locked safe* within the Secure Area, or at such other secure facility required by the level of classification of the documents. Access to Classified Documents shall be restricted as required by law. These procedures shall also apply to Subcommittees involved in the Investigation.

Access to Secure Areas and Documents. Access to the documents and materials maintained in the Majority and Minority Secure Areas shall be restricted to Members of the House, as provided by Rule XI, clause 2(e)(2), respective Investigative Staff, to other Committee staff engaged in the Committee's oversight and investigative functions, and to law enforcement officials. A list of all staff with access to the Secure Areas will be maintained by the Majority and Minority and will be updated from time to time as necessary. Subcommittees participating in the Investigation shall limit access to documents and materials to Members of the House, Majority Investigative Staff, to other Committee and Subcommittee staff engaged in the Subcommittee's oversight and investigative functions, and to law enforcement officials.

C. Release of Documents

The Committee, and its members, shall not publicly or privately release documents obtained by the Committee in accordance with the provisions of Paragraph A, except as provided herein. The provisions of this paragraph do not apply to Public Documents or Classified Documents. Non-Classified Documents, the third category of documents defined in Paragraph B, shall not be publicly or privately released except as follows:

1. **Release During Committee Meetings** -- In accordance with House Rules, Non-Classified Documents shall, unless otherwise directed by the Committee, be available for use by members of the Committee in open session, in Committee Reports, and as attachments to official correspondence;

2. **Executive Session** -- Pursuant to House Rule XI, clause 2(k)(7), no evidence or testimony taken in executive session shall be released or used in public sessions without the consent of the Committee; and

3. **Other Public Release** -- In the event that circumstances, including the necessity of correcting the public record after a partial release of documents by another party, require the public release of Non-Classified Documents through channels other than as set forth above, the Committee shall proceed as set forth below:

(a) **Agreed Release** -- The Chairman shall notify the Ranking Minority Member of his desire to release documents. The Chairman and the Ranking Minority Member shall share their views about the proposal and shall endeavor to reach consensus about the issue. The Ranking Minority Member shall notify the Chairman within twenty-four (24) hours whether he agrees or objects to the proposed release. If the Ranking Minority Member agrees with the proposed release, the Chairman may release the documents.

(b) **Contested Release** -- If the Ranking Minority Member objects to the proposed release, the Committee shall vote upon the proposed release of documents.

D. Minority Document Procedures

Unless otherwise indicated by Committee Rules or this Protocol, the procedures set forth herein shall apply to both the Majority and the Minority. This Protocol anticipates that the Minority Investigative Staff will receive separate copies of the documents obtained by Committee subpoena and letter requests during the Investigation. The Minority Investigative Staff shall handle and store all documents consistent with the security requirements and procedures specified in Paragraph B herein, including the creation and maintenance of a Secure Area. The Chairman shall request in Committee letter requests and direct in subpoenas that government agencies, private corporations and persons producing documents provide the Minority Investigative Staff with a duplicate set of documents contemporaneous with production to the Committee and its Majority Investigative Staff. In the event that the party producing documents does not make a duplicate set of documents, the Majority Investigative Staff will assist the Minority Investigative Staff in duplicating a set of the documents.

E. Internal Policy Guidance

These procedures are solely for the internal policy guidance of the Committee in handling investigative documents. Nothing in these procedures affects or waives the privileges of the Committee Members or others referred to; subjects them to any forum, authority, or questioning outside the House itself; creates rights or duties enforceable or cognizable in court; or invokes or expands the jurisdiction of any House entity, including the Committee on Standards of Official Conduct, other than the Committee.