

**Congress of the United States**  
**House of Representatives**

SELECT SUBCOMMITTEE ON THE CORONAVIRUS CRISIS

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

Phone (202) 225-4400

<https://coronavirus.house.gov>

June 3, 2021

The Honorable Lloyd J. Austin III  
Secretary  
Department of Defense  
1000 Defense Pentagon  
Washington, D.C. 20301

Dear Secretary Austin:

As the Select Subcommittee on the Coronavirus Crisis continues investigating allegations of waste, fraud, and abuse in the pandemic relief programs, I am concerned by the potential improper distribution of loan funds made available by the Coronavirus Aid, Relief and Economic Security (CARES) Act for businesses critical to maintaining U.S. national security to offset losses caused by the pandemic. A \$700 million loan to YRC Worldwide, now named Yellow Corporation (Yellow), constituted 95% of the \$735.9 million disbursed as part of this program.<sup>1</sup> In light of troubling reports regarding Yellow's questionable eligibility for and use of the funds, I write to seek documents and information to determine whether funds were diverted to waste, fraud, or abuse through the previous Administration's process for approving this substantial loan.

The CARES Act specified that national security loans and loan guarantees were made available to "provide liquidity" to "businesses critical to maintaining national security" that were "experiencing losses incurred as a result of coronavirus."<sup>2</sup> In April 2020, the Department of the Treasury (Treasury) released guidance stating that a business would qualify for a loan if it was "performing under a 'DX'-priority rated contract"—meaning a contract of the highest national defense urgency—or "operating under a valid top secret facility security clearance."<sup>3</sup> A company could also qualify by securing a "recommendation and certification by the Secretary of Defense or the Director of National Intelligence that the applicant business is critical to maintaining national security." The Treasury guidance reiterated that the loan funds could only

---

<sup>1</sup> Department of the Treasury, *Loans to Air Carriers, Eligible Businesses, and National Security Businesses* (online at <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-industry/loans-to-air-carriers-eligible-businesses-and-national-security-businesses>) (accessed on June 2, 2021).

<sup>2</sup> CARES Act, § 4003.

<sup>3</sup> Department of the Treasury, *Q&A: Loans to Air Carriers and Eligible Businesses and National Security Businesses* (Updated Apr. 10, 2020) (online at <https://home.treasury.gov/system/files/136/CARES-Airline-Loan-Support-Q-and-A-national-security.pdf>). DNI did not make any recommendations and certifications for this program. See Congressional Oversight Commission, *The Eighth Report of the Congressional Oversight Commission* (Dec. 31, 2020) (online at <https://coc.senate.gov/sites/default/files/2021-01/COMMISSION%20December%20Report%2012-31%20FINAL%2C%20appendix.pdf>).

be used to “offset covered losses incurred directly or indirectly as a result of the coronavirus pandemic.”<sup>4</sup>

On July 1, 2020, Treasury announced the first loan under the program, a \$700 million loan to Yellow.<sup>5</sup> At the time the loan was approved, Yellow was neither performing a defense contract of the highest national priority nor operating under a top-secret facility security clearance. Instead, Treasury relied on a certification and recommendation by the Secretary of Defense to approve the loan,<sup>6</sup> calling Yellow “a leading provider of critical military transportation” and stating that Yellow “provides 68% of less-than-truckload [LTL<sup>7</sup>] services to the Department of Defense.”<sup>8</sup>

The nonpartisan Government Accountability Office (GAO), the bipartisan Congressional Oversight Commission (the Commission), and even President Trump’s own Treasury Secretary, Steven Mnuchin, have raised significant concerns about the previous Administration’s implementation of the national security loan program and the loan to Yellow in particular.

Shortly after Treasury’s announcement of the Yellow loan, the Commission began an inquiry into the Trump Administration’s “decision to deem YRC a business critical to maintaining national security and the process for reaching that conclusion.”<sup>9</sup> In response, the Trump Administration failed to provide a clear explanation for the decision, and the limited information they did provide raised further concerns regarding Yellow’s eligibility for a national security loan.<sup>10</sup> The Department of Defense (DOD) refused to appear at a Commission hearing

---

<sup>4</sup> Department of the Treasury, *Q&A: Loans to Air Carriers and Eligible Businesses and National Security Businesses* (Updated Apr. 10, 2020) (online at <https://home.treasury.gov/system/files/136/CARES-Airline-Loan-Support-Q-and-A-national-security.pdf>).

<sup>5</sup> Department of the Treasury, *Press Release: Treasury to Provide Loan to YRC Worldwide* (July 1, 2020) (online at <https://home.treasury.gov/news/press-releases/sm1049>).

<sup>6</sup> Congressional Oversight Commission, *The Third Report of the Congressional Oversight Commission* (July 20, 2020) (online at [https://coc.senate.gov/sites/default/files/2020-08/20200720\\_Congressional\\_Oversight\\_Commission\\_3rd\\_Report.pdf](https://coc.senate.gov/sites/default/files/2020-08/20200720_Congressional_Oversight_Commission_3rd_Report.pdf)).

<sup>7</sup> LTL services involve the delivery of small-to-moderately sized shipments of goods that do not require a full truck and trailer. See generally RAND Corp., *Army Stock Positioning* (2017) (online at [www.rand.org/pubs/research\\_reports/RR1375.html](http://www.rand.org/pubs/research_reports/RR1375.html)).

<sup>8</sup> Department of the Treasury, *Press Release: Treasury to Provide Loan to YRC Worldwide* (July 1, 2020) (online at <https://home.treasury.gov/news/press-releases/sm1049>); Congressional Oversight Commission, *The Third Report of the Congressional Oversight Commission* (July 20, 2020) (online at [https://coc.senate.gov/sites/default/files/2020-08/20200720\\_Congressional\\_Oversight\\_Commission\\_3rd\\_Report.pdf](https://coc.senate.gov/sites/default/files/2020-08/20200720_Congressional_Oversight_Commission_3rd_Report.pdf)).

<sup>9</sup> *Id.*

<sup>10</sup> Congressional Oversight Commission, *The Fifth Report of the Congressional Oversight Commission* (Oct. 15, 2020) (online at [https://coc.senate.gov/sites/default/files/2020-10/15Oct2020\\_The%20Fifth%20Report%20FINAL%20Updated%20Appendix%2010-20%20update.pdf](https://coc.senate.gov/sites/default/files/2020-10/15Oct2020_The%20Fifth%20Report%20FINAL%20Updated%20Appendix%2010-20%20update.pdf)) (Noting that DOD failed to produce documents several weeks after missing an agreed upon deadline.); Congressional Oversight Commission, *The Eighth Report of the Congressional Oversight Commission* (Dec. 31, 2020) (online at <https://coc.senate.gov/sites/default/files/202101/COMMISSION%20December%20Report%2012->

about the program, and Treasury largely rehashed the claims in its press release by asserting that Yellow “carries 68 percent of [DOD’s] less-than-truckload [LTL] shipments and is the leading transportation provider to the Department of Homeland Security and U.S. Customs and Border Protection.”<sup>11</sup>

Subsequent disclosures to the Commission from DOD, produced only after the Biden Administration assumed office, have not substantiated the claim that Yellow regularly provides such a large share of DOD’s LTL services.<sup>12</sup> Although DOD has represented that it could not provide detailed information about its utilization of trucking company subcontractors, the Commission noted that the information DOD provided regarding its LTL expenditures suggested Yellow only provided between 20 and 40 percent of DOD’s LTL shipments.<sup>13</sup> Further, the Commission’s April 2021 report indicates that DOD received information from Yellow’s prime contractor suggesting that Yellow was not “critical to maintaining national security” because of the limited LTL services the company provides and because the loss of Yellow’s services could be readily replaced by other companies in the trucking industry.<sup>14</sup> Treasury relied on DOD’s recommendation and certification and “did not do additional diligence.”<sup>15</sup> This raises serious questions about the decision to grant Yellow a loan of more than half a billion dollars of public funds and, more broadly, the Trump Administration’s process for implementing the national security loan program.

There are also serious questions about whether Yellow properly sought, obtained, and spent the Treasury loan to ameliorate “losses incurred as a result of coronavirus.”<sup>16</sup> Yellow has used a substantial share of the loan funds to replace the tractors and trailers in its fleet as a part of

---

31%20FINAL%2C%20appendix.pdf) (“In the Commission’s view, DOD’s criteria and process for determining whether a business is critical to maintaining national security is inadequate.”).

<sup>11</sup> Congressional Oversight Commission, *The Fifth Report of the Congressional Oversight Commission* (Oct. 15, 2020) (online at [https://coc.senate.gov/sites/default/files/2020-10/15Oct2020\\_The%20Fifth%20Report%20FINAL%20Updated%20Appendix%2010-20%20update.pdf](https://coc.senate.gov/sites/default/files/2020-10/15Oct2020_The%20Fifth%20Report%20FINAL%20Updated%20Appendix%2010-20%20update.pdf)); Congressional Oversight Commission, *The Eighth Report of the Congressional Oversight Commission* (Dec. 31, 2020) (online at <https://coc.senate.gov/sites/default/files/202101/COMMISSION%20December%20Report%2012-31%20FINAL%2C%20appendix.pdf>).

<sup>12</sup> Congressional Oversight Commission, *The Eighth Report of the Congressional Oversight Commission* (Dec. 31, 2020) (online at <https://coc.senate.gov/sites/default/files/2021-01/COMMISSION%20December%20Report%2012-31%20FINAL%2C%20appendix.pdf>); Congressional Oversight Commission, *The Twelfth Report of the Congressional Oversight Commission* (Apr. 30, 2021) (online at <https://coc.senate.gov/sites/default/files/2021-04/COC%20April%20Report.pdf>).

<sup>13</sup> Congressional Oversight Commission, *The Twelfth Report of the Congressional Oversight Commission* (Apr. 30, 2021) (online at <https://coc.senate.gov/sites/default/files/2021-04/COC%20April%20Report.pdf>).

<sup>14</sup> *Id.*

<sup>15</sup> Congressional Oversight Commission, *Hearing on Examination of Loans to Businesses Critical to Maintaining National Security* (Dec. 10, 2020) (online at <https://coc.senate.gov/examination-loans-businesses-critical-maintaining-national-security>).

<sup>16</sup> CARES Act, § 4003(a).

a long-term capital investment plan,<sup>17</sup> which appears to be at odds with the CARES Act.<sup>18</sup>

Other factors further call into question whether Yellow's receipt of a national security loan was appropriate. The determination that Yellow was "critical" to national security because it provided trucking services to DOD is undermined by DOD's own findings that the company engaged in a years-long scheme of unlawful conduct in providing those very services. Investigators in the Defense Criminal Investigative Service found that Yellow had systematically overcharged DOD for seven years by knowingly inflating the weight of thousands of shipments it carried for DOD.<sup>19</sup> Yellow also allegedly made false statements to cover up these overcharging practices.<sup>20</sup> In 2018, the Department of Justice sued Yellow for this overcharging scheme.<sup>21</sup> That case is still pending.<sup>22</sup> Yellow recently agreed to settle a securities fraud lawsuit brought by investors related to the company's alleged overcharging practices and DOJ's investigation.<sup>23</sup>

Even beyond Yellow's troubled record with the U.S. government, the company's financial weaknesses before the onset of the coronavirus crisis implied that a taxpayer-funded loan would be unreasonably risky. The Commission has raised questions about "whether YRC's precarious financial condition at the time of the loan exposed taxpayers to a significant risk of loss."<sup>24</sup> The CARES Act only permitted the Treasury Secretary to make loans that were "prudently incurred," and required that any loans that were not "sufficiently secured" were "made at a rate that reflects the risk of the loan."<sup>25</sup> Treasury, in line with these requirements, created an underwriting process to assess the risk of loan applications, and that process was

---

<sup>17</sup> Jim Stinson, *YRC Orders 950 Trailers, 300 Tractors to Replace Aging Fleet*, TransportDive (Nov. 2, 2020) (online at [www.transportdive.com/news/trucking-YRC-federal-loan-tonnage-Q3-2020-earnings/588256/](http://www.transportdive.com/news/trucking-YRC-federal-loan-tonnage-Q3-2020-earnings/588256/)).

<sup>18</sup> Department of the Treasury, *Q&A: Loans to Air Carriers and Eligible Businesses and National Security Businesses* (Updated Apr. 10, 2020) (online at <https://home.treasury.gov/system/files/136/CARES-Airline-Loan-Support-Q-and-A-national-security.pdf>).

<sup>19</sup> Department of Justice, *Press Release: United States Sues Freight Companies for Systematic Overcharging of Shipments* (Dec. 14, 2018) (online at [www.justice.gov/opa/pr/united-states-sues-freight-companies-systematic-overcharging-shipments](http://www.justice.gov/opa/pr/united-states-sues-freight-companies-systematic-overcharging-shipments)).

<sup>20</sup> *Id.*

<sup>21</sup> Department of Justice, *Press Release: United States Sues Freight Companies for Systematic Overcharging of Shipments* (Dec. 14, 2018) (online at [www.justice.gov/opa/pr/united-states-sues-freight-companies-systematic-overcharging-shipments](http://www.justice.gov/opa/pr/united-states-sues-freight-companies-systematic-overcharging-shipments)); see *Kushner's Family Business Received Loans After White House Meetings*, New York Times (Feb. 28, 2018) (online at [www.nytimes.com/2018/02/28/business/jared-kushner-apollo-citigroup-loans.html](http://www.nytimes.com/2018/02/28/business/jared-kushner-apollo-citigroup-loans.html)); *Rescue of Troubled Trucking Company with White House Ties Draws Scrutiny*, New York Times (Aug. 3, 2020) (online at [www.nytimes.com/2020/08/03/us/politics/ycr-coronavirus-relief-funds.html](http://www.nytimes.com/2020/08/03/us/politics/ycr-coronavirus-relief-funds.html)).

<sup>22</sup> Decision & Order, *U.S. ex rel. Hannum v. YRC Freight et al.*, 08-CV-811-A (May 10, 2021, W.D.N.Y.), ECF No. 111 (denying Yellow subsidiaries' motion to dismiss with respect to five of six counts).

<sup>23</sup> See Stipulation of Settlement, *Lewis v. YRC Worldwide Inc.*, Case No. 1:19-cv-00001-GTS-ATB (Apr. 15, 2021, N.D.N.Y.), ECF No. 96.

<sup>24</sup> Congressional Oversight Commission, *The Fifth Report of the Congressional Oversight Commission* (Oct. 15, 2020) (online at [https://coc.senate.gov/sites/default/files/2020-10/15Oct2020\\_The%20Fifth%20Report%20FINAL%20Updated%20Appendix%2010-20%20update.pdf](https://coc.senate.gov/sites/default/files/2020-10/15Oct2020_The%20Fifth%20Report%20FINAL%20Updated%20Appendix%2010-20%20update.pdf)).

<sup>25</sup> CARES Act, § 4003(c)(2).

supposed to give greater scrutiny to large loans (such as “Tier 1” loans over \$300 million like Yellow’s loan here) or loans that otherwise posed substantial risks.<sup>26</sup> As of mid-2020, Yellow had over \$825 million in debt that had accrued before the pandemic.<sup>27</sup> Trade publications have raised concerns that Yellow was at risk of a “potential bankruptcy” and that its “capital structure will be unsustainable over the long term.”<sup>28</sup>

Despite these serious financial vulnerabilities, Treasury not only approved a substantial loan to Yellow but also agreed to charge an interest rate four percentage points lower than the company had received through private financing shortly before the onset of the pandemic.<sup>29</sup> Treasury stated that it had received 29.6% of Yellow’s stock for “taxpayer compensation,” but, given the company’s serious problems, it is questionable whether this stock “sufficiently secured” the loan, and the interest rate charged does not appear to reflect “the risk of the loan” as required by the CARES Act.<sup>30</sup> It is unclear how the decision to grant such a significant loan on these terms to a company with these financial weaknesses was approved through Treasury’s underwriting process.

Other circumstances add to concerns about how Yellow obtained such a significant national security loan. In late 2019, Yellow received a \$600 million lifeline loan from a group led by Apollo Global Management LLC (Apollo).<sup>31</sup> In April 2020, Apollo reportedly lobbied White House Senior Advisor Jared Kushner and other Trump administration officials to relax risk requirements for other CARES Act loan programs, suggesting that the company may have

---

<sup>26</sup> Government Accountability Office, *Financial Assistance: Lessons Learned from CARES Act Loan Program for Aviation and Other Eligible Businesses* (Dec. 2020) (GAO-21-198) (online at [www.gao.gov/assets/gao-21-198.pdf](http://www.gao.gov/assets/gao-21-198.pdf)).

<sup>27</sup> *In Unusual Deal, U.S. Treasury to Acquire 30 Percent of Trucking Company in Exchange for \$700 Million Loan*, Washington Post (July 1, 2020) (online at [www.washingtonpost.com/business/2020/07/01/treasury-loan-ycrc-worldwide-cares-act/](http://www.washingtonpost.com/business/2020/07/01/treasury-loan-ycrc-worldwide-cares-act/)).

<sup>28</sup> Congressional Oversight Commission, *The Third Report of the Congressional Oversight Commission* (July 20, 2020) (online at [www.banking.senate.gov/imo/media/doc/COC%203rd%20Report\\_7.20.20.pdf](http://www.banking.senate.gov/imo/media/doc/COC%203rd%20Report_7.20.20.pdf)) (citing Moody’s Investors Services, *YRC Worldwide Inc. Ratings* (accessed July 14, 2020) (online at [www.moody.com/credit-ratings/YRC-Worldwide-Inc-credit-rating-834015](http://www.moody.com/credit-ratings/YRC-Worldwide-Inc-credit-rating-834015)); *Truckers Cut Spending as Factory Slowdown Weighs on Operators*, Wall Street Journal (Apr. 7, 2020) (online at [www.wsj.com/articles/truckers-cut-spending-as-factory-slowdown-weighs-on-some-operators-11586295247](http://www.wsj.com/articles/truckers-cut-spending-as-factory-slowdown-weighs-on-some-operators-11586295247)); Standard & Poor’s, *U.S.-Based YRC Worldwide Inc. Downgraded To ‘CCC’ On Anticipated Covenant Violation, Outlook Negative* (May 28, 2020) (online at [www.standardandpoors.com/en/US/web/guest/article/-/view/type/HTML/id/2450913](http://www.standardandpoors.com/en/US/web/guest/article/-/view/type/HTML/id/2450913))).

<sup>29</sup> Treasury’s loan to Yellow was made at a rate of 3.5% plus LIBOR, while the company had received \$600 million in financing before the pandemic, in September 2019, at 7.5% plus LIBOR. See Press Release, *YRC Worldwide Announces New Term Loan Agreement*, Yellow (Sep. 11, 2019) (online at <https://investors.myyellow.com/news-releases/news-release-details/ycrc-worldwide-announces-new-term-loan-agreement>); Department of the Treasury, *Transaction Summary* (online at <https://home.treasury.gov/system/files/136/YRC-Transaction-Summary.pdf>) (accessed on May 29, 2021).

<sup>30</sup> Department of the Treasury, *Press Release: Treasury to Provide Loan to YRC Worldwide* (July 1, 2020) (online at <https://home.treasury.gov/news/press-releases/sm1049>); CARES Act, § 4003(c)(2).

<sup>31</sup> *YRC’s New Financing Is Part of Its Latest Restructuring*, Freight Waves (Sept. 11, 2019) (online at [www.freightwaves.com/news/yrccs-new-financing-is-part-of-its-latest-restructuring](http://www.freightwaves.com/news/yrccs-new-financing-is-part-of-its-latest-restructuring)).

applied similar pressure in this instance.<sup>32</sup> Further suggesting the decision to grant Yellow a loan was irregular, then-Treasury Secretary Mnuchin eventually admitted that the loan to Yellow was “risky” and testified that “we do not want to be in the long-term business of lending to this type of company.”<sup>33</sup>

Raising further questions about the propriety of the Trump Administration’s decision to approve the loan to Yellow, GAO issued a report in December finding significant abnormalities in Treasury’s implementation of the national security loan program during the Trump Administration. GAO found that a “lack of documented policies and procedures may have weakened the consistency with which Treasury reviewed and analyzed loan applications.” GAO also reported that Treasury “did not follow the standard process established for evaluating applications for the YRC loan” and that “Treasury staff not otherwise involved in the loan program helped negotiate and execute the loan.” GAO found that, unlike the way Treasury handled other applicants, the Department “accelerated evaluating YRC’s application due to the urgency of the business’s financial circumstances, including the possibility of YRC filing for bankruptcy if it did not receive aid.”<sup>34</sup>

The Select Subcommittee is concerned that the previous Administration may have mismanaged the national security loan program and squandered taxpayer funds in a manner not authorized by law. In light of the Trump Administration’s refusal to fully cooperate with previous inquiries, please produce by June 17, 2021, the following documents and information:

1. All communications with Yellow, Crowley Logistics Inc. (or its corporate affiliates, such as Crowley Maritime), Apollo Global Management, Treasury, or the White House, between March 1, 2020, and January 20, 2021, concerning Yellow’s application for a national security loan application under CARES Act Section 4003(b)(3), including communications regarding DOD’s process for certifying that Yellow was “critical to maintaining national security.”
2. All documents relied on in reaching the decision to certify that Yellow was critical to maintaining national security for the purposes of its national security loan application, including any documents relied on for the assessment that Yellow provides 68 percent of DOD’s LTL services.
3. All Defense Freight Transportation Services (DFTS) contracts with Crowley Logistics (or its corporate affiliates) that cover the years 2018, 2019, and 2020.

---

<sup>32</sup> Ken Dilanian & Stephanie Ruhle, *Seeking Coronavirus Relief, Investment Firm with Ties to Kushner Emails Kushner, Trump Admin*, NBC News (Apr. 4, 2020) (online at [www.nbcnews.com/politics/white-house/seeking-coronavirus-relief-investment-firm-ties-kushner-emails-kushner-trump-n1176686](http://www.nbcnews.com/politics/white-house/seeking-coronavirus-relief-investment-firm-ties-kushner-emails-kushner-trump-n1176686)).

<sup>33</sup> Congressional Oversight Commission, *Hearing on Examination of Loans to Businesses Critical to Maintaining National Security* (Dec. 10, 2020) (online at <https://coc.senate.gov/examination-loans-businesses-critical-maintaining-national-security>).

<sup>34</sup> Government Accountability Office, *Financial Assistance: Lessons Learned from CARES Act Loan Program for Aviation and Other Eligible Businesses* (Dec. 2020) (GAO-21-198) (online at [www.gao.gov/assets/720/711174.pdf](http://www.gao.gov/assets/720/711174.pdf)).

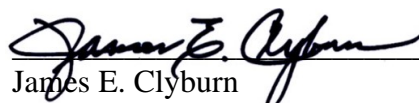
4. All DOD contracts or subcontractor agreements with Yellow Corporation (previously named YRC Worldwide) or its corporate affiliates. For this item, please provide responsive documents dated from January 1, 2018, to January 20, 2021.
5. Documents sufficient to show the name and address of each entity that DOD certified as critical to maintaining national security for the purposes of a loan application under CARES Act Section 4003(b)(3).

In addition, the Select Subcommittee requests a staff briefing by June 30, 2021, regarding this matter.

These requests are consistent with the House's authorization of the Select Subcommittee on the Coronavirus Crisis "to conduct a full and complete investigation" of "issues related to the coronavirus crisis," including "reports of waste, fraud, abuse, price gouging, profiteering, or other abusive practices related to the coronavirus crisis," and the "efficiency, effectiveness, equity, and transparency of the use of taxpayer funds and relief programs to address the coronavirus crisis."<sup>35</sup>

An attachment to this letter provides additional instructions for responding to the Select Subcommittee's request. If you have any questions regarding this request, please contact Select Subcommittee staff at (202) 255-4400.

Sincerely,

  
James E. Clyburn  
Chairman

Enclosure

cc: The Honorable Steve Scalise, Ranking Member

---

<sup>35</sup> H.Res. 8, sec. 4(f), 117th Cong. (2021); H.Res. 935, 116th Cong. (2020).

## 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.