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SELECT SUBCOMMITTEE ON THE CORONAVIRUS CRISIS

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June 16, 2020

The Honorable Seema Verma
Administrator
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Dear Administrator Verma:

The Select Subcommittee on the Coronavirus Crisis is examining the devastating impact of the coronavirus outbreak on residents and workers in nursing homes. The Subcommittee is concerned that lax oversight by the Centers for Medicare and Medicaid Services (CMS) and the federal government's failure to provide testing supplies and personal protective equipment to nursing homes and long-term care facilities may have contributed to the spread of the coronavirus and the deaths of more than 40,000 Americans in these facilities. We write today to seek documents and information regarding CMS's actions to protect vulnerable Americans in nursing homes.

Over one-third of the nation's more than 115,000 coronavirus deaths have been among residents or employees of nursing homes and long-term care facilities,¹ with one in five facilities reporting at least one death.² Men and women in nursing homes have died from the coronavirus in every state except Hawaii.³ In many states, nursing home deaths represent a majority of all deaths from the coronavirus.⁴

¹ 'A National Disgrace': 40,600 Deaths Tied to US Nursing Homes, USA Today (updated June 2, 2020) (online at www.usatoday.com/story/news/investigations/2020/06/01/coronavirus-nursing-home-deaths-top-40-600/5273075002/); Centers for Medicare and Medicaid Services, *COVID-19 Nursing Home Data as of Week Ending: May 31, 2020* (online at data.cms.gov/stories/s/COVID-19-Nursing-Home-Data/bkwz-xpvg).

² A Quarter of U.S. Nursing Homes Report At Least One Coronavirus Infection, First Official Tally Shows, CNN (June 1, 2020) (online at www.cnn.com/2020/06/01/politics/nursing-homes-us-cases-deaths-covid/index.html).

³ Centers for Medicare and Medicaid Services, *Nursing Home COVID-19 Data* (June 4, 2020) (online at www.cms.gov/files/document/6120-nursing-home-covid-19-data.pdf); *Second COVID-19 Related Death Reported for Providence Transitional Care Center*, KTUU (June 12, 2020) (online at www.ktuu.com/content/news/Second-COVID-19-related-death-reported-for-Providence-Transitional-Care-Center-571231301.html).

⁴ Kaiser Family Foundation, *State Data and Policy Actions to Address Coronavirus* (June 15, 2020) (online at www.kff.org/coronavirus-covid-19/issue-brief/state-data-and-policy-actions-to-address-coronavirus/).

Your agency plays a crucial role in overseeing nursing homes to ensure they protect the health and safety of vulnerable residents and comply with Medicare and Medicaid regulations. CMS is empowered to set quality and safety standards, require inspections to monitor compliance, and impose a range of enforcement measures for failure to comply with those standards, including corrective action plans, civil monetary penalties, and termination from the Medicare and Medicaid programs.⁵ CMS is supposed to impose the most severe sanctions when a violation “has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident.”⁶ In October 2019, prior to the coronavirus pandemic, you asserted, “Nursing home patient and resident safety is a top priority for the Trump Administration.”⁷

Despite CMS’s broad legal authority, the agency has largely deferred to states, local governments, and for-profit nursing homes to respond to the coronavirus crisis. CMS has issued guidance for nursing homes, but this guidance has often been unclear, and CMS failed to take adequate steps to ensure that nursing homes comply with its recommendations. Deregulation and lax enforcement of infection control violations by CMS—both before and during the pandemic—may have contributed to the spread of the virus.

At a June 11, 2020, briefing, health experts and affected Americans told the Select Subcommittee that many nursing homes do not have adequate testing, personal protective equipment, and infection control measures to protect vulnerable residents and workers. Briefers also warned that CMS’s failure to enforce infection control standards, relaxation of inspection requirements, and limited data collection regarding outbreaks may have exacerbated the spread of the virus in nursing homes.⁸

Weak Oversight of Nursing Homes During the Pandemic

On March 13, 2020, CMS issued a memorandum entitled, “Guidance for Infection Control and Prevention of Coronavirus Disease 2019 (COVID-19) in Nursing Homes.” The guidance stated that nursing homes “are not required to transfer” residents with suspected or confirmed coronavirus infections to a hospital if a patient does not require hospitalization and the nursing home “can adhere to the rest of the infection prevention and control practices recommended for caring for a resident with COVID-19.” The guidance also stated that nursing homes “can accept a resident diagnosed with COVID-19 and still under Transmission-Based

⁵ Centers for Medicare and Medicaid Services, *Medicare State Operations Manual, Chapter 7 - Survey and Enforcement Process for Skilled Nursing Facilities and Nursing Facilities* (Nov. 16, 2018) (online at www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/som107c07pdf.pdf).

⁶ Centers for Medicare and Medicaid Services, *Nursing Home Enforcement* (revised Feb. 11, 2020) (online at www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationEnforcement/Nursing-Home-Enforcement).

⁷ Centers for Medicare and Medicaid Services, *Trump Administration Strengthens Oversight of Nursing Home Inspections to Keep Patients and Residents Safe* (Oct. 17, 2019) (online at www.cms.gov/newsroom/press-releases/trump-administration-strengthens-oversight-nursing-home-inspections-keep-patients-and-residents-safe).

⁸ Select Subcommittee on the Coronavirus Crisis, *Press Release: Select Committee Briefing Confirms Urgent Need For Federal Action To Protect Nursing Homes From Coronavirus* (June 12, 2020) (online at coronavirus.house.gov/news/press-releases/select-committee-briefing-confirms-urgent-need-federal-action-protect-nursing).

Precautions for COVID-19 [from a hospital] as long as the facility can follow CDC guidance for Transmission-Based Precautions.” The guidance emphasized:

Nursing homes should admit any individuals that they would normally admit to their facility, including individuals from hospitals where a case of COVID-19 was/is present.⁹

More than two months later, on May 18, 2020, CMS issued guidance recommending that nursing homes test all residents and staff for the coronavirus and perform weekly retesting of staff.¹⁰ However, many facilities across the country still lack adequate testing supplies and have failed to meet CMS testing recommendations.¹¹ The Trump Administration has largely deferred to individual states and nursing homes on testing, with the Department of Health and Human Services explaining, “States, territories, and tribes are responsible for formulating and implementing testing plans,”¹² and CMS noting, “Ultimately, nursing homes are responsible for the health and safety of their residents.”¹³

CMS and the Centers for Disease Control and Prevention (CDC) have acknowledged that personal protective equipment such as masks, gowns, and gloves, as well as hand sanitizer and cleaning supplies, are essential to limiting the spread of the coronavirus.¹⁴ Yet CMS data confirms that nursing homes around the country lack adequate protective equipment to protect their workers and residents.¹⁵ According to a Washington Post analysis of this data:

⁹ Centers for Medicare and Medicaid Services, *Guidance for Infection Control and Prevention of Coronavirus Disease 2019 (COVID-19) in Nursing Homes (REVISED)* (Mar. 13, 2020) (online at www.cms.gov/files/document/qso-20-14-nh-revised.pdf).

¹⁰ Centers for Medicare and Medicaid Services, *Nursing Home Reopening Recommendations for State and Local Officials* (May 18, 2020) (online at www.cms.gov/files/document/qso-20-30-nh.pdf).

¹¹ *Two-Thirds of Florida’s Nursing Home, Assisted Living Residents and Staff Have Been Tested for COVID-19*, Naples Daily News (updated June 11, 2020) (online at www.naplesnews.com/story/news/local/florida/2020/06/05/two-thirds-florida-nursing-home-residents-staff-not-tested-covid-19/3157295001/); *Coronavirus Testing at Nursing Homes Not Yet Complete, Over 100 Locations Outstanding*, KXAN News (June 3, 2020) (online at www.kxan.com/investigations/coronavirus-testing-at-nursing-homes-not-yet-complete-over-100-locations-outstanding/).

¹² Department of Health and Human Services, *Report to Congress: COVID-19 Strategic Testing Plan* (May 24, 2020) (online at www.democrats.senate.gov/imo/media/doc/COVID%20National%20Diagnostics%20Strategy%2005%2024%202020%20v%20FINAL.pdf).

¹³ Centers for Medicare and Medicaid Services, *Nursing Home Reopening Recommendations Frequently Asked Questions* (May 18, 2020) (online at www.cms.gov/files/document/covid-nursing-home-reopening-recommendation-faqs.pdf).

¹⁴ Centers for Medicare and Medicaid Services, *Prioritization of Survey Activities* (Mar. 23, 2020) (online at www.cms.gov/files/document/qso-20-20-all.pdf); Centers for Disease Control and Prevention, *Responding to Coronavirus (COVID-19) in Nursing Homes* (revised Apr. 30, 2020) (online at www.cdc.gov/coronavirus/2019-ncov/hcp/nursing-homes-responding.html).

¹⁵ *Hundreds of Nursing Homes Ran Short on Staff, Protective Gear as More Than 30,000 Residents Died During Pandemic*, Washington Post (June 4, 2020) (online at www.washingtonpost.com/business/2020/06/04/nursing-homes-coronavirus-deaths/).

More than 250 nursing homes lack any surgical masks and another 800 are within a week of running out. More than 2,000 are a week away from running out of gowns and more than 800 are a week away from depleting hand sanitizer supplies. More than 500 lack any N95 masks used to prevent infection, according to the data.¹⁶

Although the Administration promised to provide a two-week supply of protective equipment to nursing homes, these limited supplies are clearly insufficient to address widespread shortages over many months. The shipments have also included defective and expired equipment and in many cases still have not arrived, more than six weeks after the Administration announced the shipments in a press release.¹⁷

During the pandemic, CMS has sought to provide “maximum flexibility” by issuing blanket waivers of several Medicare and Medicaid requirements.¹⁸ For example, CMS has suspended standard inspections of nursing homes and allowed targeted infection control inspections to be performed remotely in some cases. CMS has also directed state inspection agencies to focus “exclusively on issues related to infection control and other serious health and safety threats” and to “use enforcement discretion, unless immediate jeopardy situations arise.”¹⁹

CMS data confirms that only 54 percent of nursing homes nationwide have been inspected since March 4, 2020, with seven states below 20 percent.²⁰ While some adaptations to inspections and enforcement may be necessary during the pandemic, CMS has not explained how it plans to protect the health and safety of nursing home residents with limited and remote inspections and reduced enforcement. Robust oversight is particularly important in light of the devastating coronavirus death toll in nursing homes and the “widespread and persistent” deficiencies in infection control at nursing homes prior to the pandemic.²¹

¹⁶ *Hundreds of Nursing Homes Ran Short on Staff, Protective Gear as More Than 30,000 Residents Died During Pandemic*, Washington Post (June 4, 2020) (online at www.washingtonpost.com/business/2020/06/04/nursing-homes-coronavirus-deaths/).

¹⁷ *Nursing Homes Run Short of COVID-19 Protective Gear as Federal Response Falters*, National Public Radio (June 11, 2020) (online at www.npr.org/sections/health-shots/2020/06/11/875335588/nursing-homes-run-short-of-covid-19-protective-gear-as-federal-response-falters); Federal Emergency Management Agency, *Press Release: Personal Protective Equipment for Medicare and Medicaid Nursing Homes* (Apr. 30, 2020) (online at www.fema.gov/news-release/2020/04/30/personal-protective-equipment-medicare-and-medicaid-nursing-homes).

¹⁸ Centers for Medicare and Medicaid Services, *Long Term Care Facilities (Skilled Nursing Facilities and/or Nursing Facilities): CMS Flexibilities to Fight COVID-19* (June 12, 2020) (online at www.cms.gov/files/document/covid-long-term-care-facilities.pdf).

¹⁹ Centers for Medicare and Medicaid Services, *CMS Announces Actions to Address Spread of Coronavirus* (Mar. 4, 2020) (online at www.cms.gov/newsroom/press-releases/cms-announces-actions-address-spread-coronavirus); Centers for Medicare and Medicaid Services, *Prioritization of Survey Activities* (Mar. 23, 2020) (online at www.cms.gov/files/document/qso-20-20-all.pdf).

²⁰ Centers for Medicare and Medicaid Services, *Nursing Home COVID-19 Data* (June 1, 2020) (online at www.cms.gov/files/document/6120-nursing-home-covid-19-data.pdf).

²¹ Government Accountability Office, *Infection Control Deficiencies Were Widespread and Persistent in Nursing Homes Prior to COVID-19 Pandemic* (May 20, 2020) (online at www.gao.gov/assets/710/707069.pdf); *Nursing Homes Violated Basic Health Standards, Allowing the Coronavirus to Explode*, ProPublica (Apr. 24, 2020)

CMS also waived training requirements for nurse aides and data reporting requirements, such as the requirement that nursing homes submit detailed staffing data.²² Addressing staff shortages is critical, but waiving training and reporting requirements may exacerbate persistent problems with inadequate patient care and utilization of less skilled workers in place of registered nurses and other medical professionals.

Lack of Transparency Has Hindered Response

CMS has imposed only limited reporting requirements on nursing homes, hindering efforts to understand the full scope of the coronavirus outbreak in these facilities. On May 1, 2020, CMS implemented an interim rule requiring nursing homes to begin reporting weekly data on coronavirus infections and deaths, tests, and equipment.²³ However, CMS did not require comprehensive data prior to May 8, 2020—even though the first nursing home outbreak began in February. Experts have also raised concerns that the limited data reported under this rule is inaccurate and that approximately 12 percent of facilities failed to report any data in their initial submission.²⁴

The Administration's distribution of billions of dollars in funds to long-term care facilities under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, the Paycheck Protection Program and Health Care Enhancement Act, and Medicare's Accelerated Payment Program has been marked by a lack of transparency. Although recipients must agree to use the funds for certain purposes related to the outbreak, there has been little public reporting on which nursing home operators have received funds, the amount and type of relief provided, and how they have actually used the funds.²⁵ Transparency is critically important to ensure that these taxpayer funds are used appropriately to help the residents and workers of nursing homes, such as to pay for staffing, personal protective equipment, or tests needed to combat the coronavirus.

(online at www.propublica.org/article/nursing-homes-violated-basic-health-standards-allowing-the-coronavirus-to-explode).

²² Centers for Medicare and Medicaid Services, *Long Term Care Facilities (Skilled Nursing Facilities and/or Nursing Facilities): CMS Flexibilities to Fight COVID-19* (June 12, 2020) (online at www.cms.gov/files/document/covid-long-term-care-facilities.pdf).

²³ Centers for Medicare and Medicaid Services, *Nursing Home COVID-19 Data and Inspections Results Available on Nursing Home Compare* (June 4, 2020) (online at www.cms.gov/newsroom/press-releases/nursing-home-covid-19-data-and-inspections-results-available-nursing-home-compare).

²⁴ Select Subcommittee on the Coronavirus Crisis, *Briefing on The Devastating Impact Of The Coronavirus Crisis In America's Nursing Homes* (June 11, 2020); *Nursing Homes Shocked at 'Insanely Wrong' CMS Data on COVID-19*, MedPage Today (June 9, 2020) (online at www.medpagetoday.com/infectiousdisease/covid19/86967); *CMS To Step Up Inspections, Increase Fines As Report Confirms At Least 26,000 Nursing Home COVID Deaths*, Kaiser Health News (June 2, 2020) (online at khn.org/morning-breakout/cms-to-step-up-inspections-increase-fines-as-report-confirms-at-least-26000-nursing-home-covid-deaths/).

²⁵ Department of Health and Human Services, *CARES Act Provider Relief Fund: FAQs* (revised June 4, 2020) (online at www.hhs.gov/coronavirus/cares-act-provider-relief-fund/faqs/index.html).

Requests for Documents and Information

The Select Subcommittee requests that you produce the following documents and information by June 30, 2020. Unless otherwise specified, please provide the following information for the period covering January 1, 2020, to the present:

1. Documents sufficient to show the total number of coronavirus tests that have been performed at nursing homes, including a breakdown of the number of tests performed on residents and staff and the proportion of residents and staff tested;
2. All projections, forecasts, models, and estimates related to the impact of the coronavirus crisis in nursing homes for each month through December 2021, including:
 - a. the projected number of coronavirus infections and deaths at these facilities;
 - b. the projected number of coronavirus tests needed at these facilities and the projected number that will be available;
 - c. the projected number of personal protective equipment or other medical supplies needed at these facilities and the projected number that will be available (broken down by N95 respirator masks; surgical masks; face shields; isolation gowns; surgical gowns; goggles; disposable caps; disposable shoe covers; disposable gloves; hand sanitizer; and cleaning supplies); and
 - d. the projected number of state surveys needed to protect residents' health and ensure compliance with federal regulations at these facilities; and
3. A detailed description of CMS's current plans with regard to:
 - a. ensuring that nursing homes have adequate testing and personal protective equipment available;
 - b. addressing chronic understaffing at nursing homes, including but not limited to understaffing and ensuring that the workforce is adequately trained during the coronavirus pandemic;
 - c. investigating and remediating infection prevention and control deficiencies at nursing homes;
 - d. revising regulations requiring nursing homes to employ infection prevention specialists; and
 - e. issuing, maintaining, or rescinding any waivers CMS issued to Medicare and Medicaid requirements in connection with the coronavirus, including but not limited to waivers related to patient safety, state surveys of nursing homes, training of nurse aides, and submission of nursing home staffing data; and
4. All documents related to formal or informal complaints made about any nursing home or any employee thereof relating to the coronavirus;

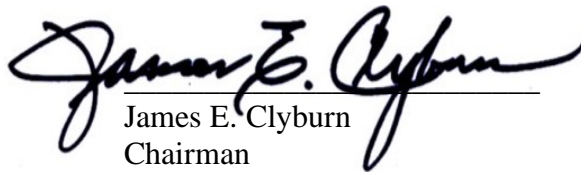
5. All policies, protocols, and procedures (including drafts, modifications, training materials, and any other formal or informal guidance) concerning classifying the severity and scope of infection prevention and control and other deficiencies at nursing homes relating to the coronavirus, as well as imposing enforcement remedies related thereto; and
6. A detailed description of each enforcement action initiated or completed by CMS against any nursing home relating to the coronavirus. Please include the name and address of each facility, the deficiencies or findings underlying the enforcement action, and the nature of the enforcement action or remedial actions taken against the nursing home.

In addition, the Subcommittee respectfully requests a staff briefing by June 30, 2020, to address these issues.

Modeled after the Truman Committee during World War II, the Select Subcommittee on the Coronavirus Crisis was established by the U.S. House of Representatives on April 23, 2020, pursuant to House Resolution 935, “to conduct a full and complete investigation” of the “efficiency, effectiveness, equity, and transparency of the use of taxpayer funds and relief programs to address the coronavirus crisis,” the nation’s “preparedness for and response to the coronavirus crisis,” and “any other issues related to the coronavirus crisis.”

An attachment to this letter provides additional instructions for responding to the Committee’s request. If you have any questions regarding this request, please contact Committee staff at (202) 225-4400.

Sincerely,



James E. Clyburn
Chairman

Enclosure

cc: The Honorable Steve Scalise, Ranking Member

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.