

Congress of the United States  
House of Representatives

SELECT SUBCOMMITTEE ON THE CORONAVIRUS CRISIS

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May 27, 2021

Mr. Rob Frohwein  
Chief Executive Officer  
Kabbage, Inc.  
730 Peachtree Street NE  
Suite 1100  
Atlanta, GA 30308

Dear Mr. Frohwein:

As the Select Subcommittee on the Coronavirus Crisis continues investigating potential waste, fraud, and abuse in the Paycheck Protection Program (PPP), I am deeply troubled by recent reports alleging that financial technology (FinTech) lenders and their bank partners failed to adequately screen PPP loan applications for fraud. This failure may have led to millions of dollars in FinTech-facilitated PPP loans being made to fraudulent, non-existent, or otherwise ineligible businesses.<sup>1</sup> Recent reports indicate that Kabbage, an Atlanta-based FinTech lender, has facilitated a large number of loans connected to ineligible companies and fraudulent applications.<sup>2</sup> I am writing today to request documents and information necessary for the Select Subcommittee to understand whether Kabbage and other FinTech lenders and their bank partners implemented and utilized necessary fraud controls in reviewing PPP loan applications.

According to analysis by Bloomberg, while FinTechs processed just 15 percent of PPP loans overall, they are associated with 75 percent of the approved PPP loans that the Department of Justice (DOJ) connected with fraud.<sup>3</sup> A separate investigation by the nonpartisan Project on Government Oversight (POGO) found that nearly half of approved loans cited in criminal court documents involved seven FinTech companies and their bank partners.<sup>4</sup> This failure to detect

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<sup>1</sup> See, e.g., *Hundreds of PPP Loans Went to Fake Farms in Absurd Places*, ProPublica (May 18, 2021) (online at [www.propublica.org/article/ppp-farms](http://www.propublica.org/article/ppp-farms)).

<sup>2</sup> See, e.g., *How Newbie Firms Got PPP Loans Through Quickie Lender Kabbage*, Miami Herald (Sep. 10, 2020) (online at [www.miamiherald.com/news/state/florida/article245599035.html](http://www.miamiherald.com/news/state/florida/article245599035.html)); *Hundreds of PPP Loans Went to Fake Farms in Absurd Places*, ProPublica (May 18, 2021) (online at [www.propublica.org/article/ppp-farms](http://www.propublica.org/article/ppp-farms)).

<sup>3</sup> *PPP Scammers Used Fintech Companies to Carry Out Fraud*, Bloomberg (Oct. 7, 2020) (online at [www.bloomberg.com/news/articles/2020-10-07/ppp-loans-scammers-used-fintech-companies-to-carry-out-fraud](http://www.bloomberg.com/news/articles/2020-10-07/ppp-loans-scammers-used-fintech-companies-to-carry-out-fraud)).

<sup>4</sup> *Lamborghini's, Strip Clubs, Bogus Companies, and Lies: The First 56 Paycheck Protection Program Fraud Cases*, Project on Government Oversight (Oct. 8, 2020) (online at [www.pogo.org/investigation/2020/10/lamborghini-strip-clubs-bogus-companies-and-lies/](http://www.pogo.org/investigation/2020/10/lamborghini-strip-clubs-bogus-companies-and-lies/)).

fraud occurred while Kabbage and other FinTechs made hundreds of millions of dollars in fees by issuing publicly funded PPP loans.<sup>5</sup>

This analysis lends credence to reports that criminal actors sought out FinTechs for fraudulent PPP loans because of the speed with which the FinTech companies processed the loans—which in some cases could be approved in “as little as an hour”—and the fact that the FinTech loan application process appeared to include very little scrutiny of its applicants.<sup>6</sup> One FinTech official reportedly said that their company handled PPP loans “at a blistering rate and with less due diligence than it would normally exercise if its own funds, rather than taxpayer dollars, were on the line.”<sup>7</sup> This indifference to the proper disbursement of public funds is unacceptable.

Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act on March 27, 2020 to provide relief to millions of Americans struggling due to the pandemic. The CARES Act empowered Treasury and SBA to develop PPP to provide millions of small businesses with vital assistance. Treasury and SBA were also charged with identifying suitable lenders to administer the program.<sup>8</sup> On April 8, 2020, SBA began allowing non-bank and non-insured depository institution lenders, including FinTechs, to provide PPP loans to eligible recipients.<sup>9</sup> In many instances, FinTechs partnered with a handful of regulated banks to process loans. FinTechs “onboard, verify and approve small businesses,” and then submit the loans to

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<sup>5</sup> See, e.g., *How Newbie Firms Got PPP Loans Through Quickie Lender Kabbage*, Miami Herald (Sep. 10, 2020) (online at [www.miamiherald.com/news/state/florida/article245599035.html](http://www.miamiherald.com/news/state/florida/article245599035.html)); *Big Banks Generated Billions in PPP Fees*, Miami Herald (Dec. 3, 2020) (online at [www.miamiherald.com/news/coronavirus/article247562870.html](http://www.miamiherald.com/news/coronavirus/article247562870.html)).

<sup>6</sup> *Why PPP Fraud Hit Fintechs Harder than Banks*, American Banker (Nov. 11, 2020) (online at [www.americanbanker.com/news/why-ppp-fraud-hit-fintechs-harder-than-banks](http://www.americanbanker.com/news/why-ppp-fraud-hit-fintechs-harder-than-banks)).

<sup>7</sup> *Lamborghini's, Strip Clubs, Bogus Companies, and Lies: The First 56 Paycheck Protection Program Fraud Cases*, Project on Government Oversight (Oct. 8, 2020) (online at [www.pogo.org/investigation/2020/10/lamborghini-strip-clubs-bogus-companies-and-lies/](http://www.pogo.org/investigation/2020/10/lamborghini-strip-clubs-bogus-companies-and-lies/)).

<sup>8</sup> Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, § 1102 (2020).

<sup>9</sup> Department of Treasury, *Paycheck Protection Program* (online at <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-small-businesses/paycheck-protection-program>) (accessed May 20, 2021); Small Business Administration, *SBA Form 3507: CARES Act Section 1102 Lender Agreement – Non-Bank and Non-Insured Depository Institutions Lenders* (posted on Apr. 8, 2020) (online at <https://home.treasury.gov/system/files/136/PPP--Agreement-for-New-Lenders-Non-Bank-Non-Insured-Depository-Institution-Lenders-w-seal-fillable-4-8-2020.pdf>). For definitional consistency, the Select Subcommittee is relying on the Small Business Administration’s identification of Fintech lenders. Small Business Administration, *Fintech Companies Participating in Paycheck Protection Program (as of May 8, 2020)* (online at [www.sba.gov/sites/default/files/2020-05/Fintech\\_Companies\\_Participating\\_in\\_PPP\\_05.08.20\\_0.pdf](http://www.sba.gov/sites/default/files/2020-05/Fintech_Companies_Participating_in_PPP_05.08.20_0.pdf)).

SBA through the bank partners.<sup>10</sup> Some banks would then keep the PPP loans on their balance sheets while others would sell the loans back to the FinTech or third parties.<sup>11</sup>

PPP requires lenders that are federally regulated financial institutions to certify under penalty of criminal prosecution that they have applied the anti-money laundering requirements under the Bank Secrecy Act; PPP lenders that are not federally regulated financial institutions are required to certify that they have followed such requirements applicable to an equivalent regulated institution.<sup>12</sup> Yet many FinTechs reportedly lacked compliance management systems necessary to satisfy this requirement. One FinTech lender associated with multiple prosecutions of PPP fraud boasted that “over 75% of all approved applications, and more than 90% of self-employed applications, were processed without human intervention or manual review.”<sup>13</sup> Individuals involved in the manual reviews of potentially fraudulent applications at FinTechs have described the process as “perfunctory.”<sup>14</sup> This lack of rigor was reflected in their failures to deny applications showing clear markers of fraud. Rather than something to boast of, the rates of fraud associated with these loans strongly suggest that FinTech companies’ loan screening processes were woefully inadequate. A Bloomberg report points to multiple instances of fraud that could have been prevented had FinTechs simply conducted web searches for the company name of inactive, nonexistent, or otherwise clearly ineligible applicants.<sup>15</sup>

Kabbage, which was recently acquired by American Express, issued over 300,000 PPP loans worth \$7 billion between April 3, 2020, and August 8, 2020, making it the second-largest

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<sup>10</sup> Kabbage, *Kabbage PPP Results: A Historic Feat for FinTech* (updated as of Aug. 8, 2020) (online at <https://newsroom.kabbage.com/wp-content/uploads/2020/07/Kabbage-Paycheck-Protection-Program-PPP-Report.pdf>); *Why FinTechs Are Declaring Victory in PPP Loans*, Forbes (Aug. 13, 2020) (online at [www.forbes.com/sites/megangorman/2020/08/13/why-fintechs-are-declaring-victory-in-ppp-loans/?sh=7031ed202205](http://www.forbes.com/sites/megangorman/2020/08/13/why-fintechs-are-declaring-victory-in-ppp-loans/?sh=7031ed202205)).

<sup>11</sup> *FinTechs Are Making Inroads in Small-Business Loans*, Barrons (July 15, 2020) (online at [www.barrons.com/articles/fintechs-are-making-inroads-in-small-business-loans-51594839654](http://www.barrons.com/articles/fintechs-are-making-inroads-in-small-business-loans-51594839654)).

<sup>12</sup> Small Business Administration, *SBA Form 3507: CARES Act Section 1102 Lender Agreement – Non-Bank and Non-Insured Depository Institutions Lenders* (Apr. 8, 2020) (online at <https://home.treasury.gov/system/files/136/PPP--Agreement-for-New-Lenders-Non-Bank-Non-Insured-Depository-Institution-Lenders-w-seal-fillable-4-8-2020.pdf>) (emphasis added); see also, Small Business Administration, *Business Loan Program Temporary Changes; Paycheck Protection Program*, 85 Fed. Reg. 20811 (Apr. 15, 2020) (interim final rule) (“Entities that are not presently subject to the requirements of the [Bank Secrecy Act], should, prior to engaging in PPP lending activities, including making PPP loans to either new or existing customers who are eligible borrowers under the PPP, establish an anti-money laundering (AML) compliance program equivalent to that of a comparable federally regulated institution.”).

<sup>13</sup> Kabbage, *Kabbage PPP Results: A Historic Feat for FinTech* (updated as of Aug. 8, 2020) (online at <https://newsroom.kabbage.com/wp-content/uploads/2020/07/Kabbage-Paycheck-Protection-Program-PPP-Report.pdf>).

<sup>14</sup> *Hundreds of PPP Loans Went to Fake Farms in Absurd Places*, ProPublica (May 18, 2021) (online at [www.propublica.org/article/ppp-farms](http://www.propublica.org/article/ppp-farms)).

<sup>15</sup> *PPP Scammers Used Fintech Companies to Carry Out Fraud*, Bloomberg (Oct. 7, 2020) (online at [www.bloomberg.com/news/articles/2020-10-07/ppp-loans-scammers-used-fintech-companies-to-carry-out-fraud](http://www.bloomberg.com/news/articles/2020-10-07/ppp-loans-scammers-used-fintech-companies-to-carry-out-fraud)).

PPP lender by application volume.<sup>16</sup> Independent experts estimate that the company has earned at least \$330 million in fees on the \$7 billion in approved loans.<sup>17</sup> Despite this windfall, the list of fraudulent PPP loans connected to Kabbage is extensive and growing. Multiple Kabbage-approved PPP loans are now connected to DOJ fraud prosecutions, casting significant doubt on the adequacy of the company's onboarding and fraud detection process.<sup>18</sup> A joint investigation by the Miami Herald, McClatchy DC, and the Anti-Corruption Data Collective also found that about 20 percent of the PPP loans that they identified as suspicious were approved by Kabbage.<sup>19</sup>

In one case, Kabbage loaned between \$350,000 and \$1 million to a Florida corporate entity established nearly three months *after* the deadline that businesses had to be operational by to qualify for PPP loans. The company did not have any online footprint, was registered to a residential address, and did not have proper licenses for their purported line of business. In another incident, Kabbage and a partner FinTech facilitated loans for \$2 million in PPP funds to businesses in Arkansas that were not in good standing with the Arkansas Secretary of State.<sup>20</sup> In a separate instance, Kabbage facilitated a loan of \$1.3 million to a "company" that existed only on paper, having no employees or operations and with no record of ever filing federal or local taxes, and that was controlled by an individual who was previously convicted of three felonies related to theft and counterfeiting.<sup>21</sup> After receiving these funds, the recipient of the PPP loan purchased an 18-room-Tuscan-style mansion in New Jersey and a riverfront motel outside of Branson, Missouri.

In yet another troubling episode, Kabbage facilitated between \$300,000 and \$700,000 in loans to companies in Louisiana registered just days before making their loan application and operated by a borrower with delinquent SBA loans, in violation of PPP lending rules.<sup>22</sup> Recent reporting by ProPublica found that Kabbage made at least 78 loans totaling \$7 million to fake

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<sup>16</sup> Kabbage, *Kabbage PPP Results: A Historic Feat for FinTech* (updated as of Aug. 8, 2020) (online at <https://newsroom.kabbage.com/wp-content/uploads/2020/07/Kabbage-Paycheck-Protection-Program-PPP-Report.pdf>)

<sup>17</sup> *How Newbie Firms Got PPP Loans Through Quickie Lender Kabbage*, Miami Herald (Sep. 10, 2020) (online at [www.miamiherald.com/news/state/florida/article245599035.html](http://www.miamiherald.com/news/state/florida/article245599035.html)).

<sup>18</sup> *PPP Scammers Used Fintech Companies to Carry Out Fraud*, Bloomberg (Oct. 7, 2020) (online at [www.bloomberg.com/news/articles/2020-10-07/ppp-loans-scammers-used-fintech-companies-to-carry-out-fraud](http://www.bloomberg.com/news/articles/2020-10-07/ppp-loans-scammers-used-fintech-companies-to-carry-out-fraud)); Criminal Complaint, *United States of America v. Jean R. Lavanture*, (N.D.N.Y. 2020) (No. 20-MJ-00452); Criminal Indictment, *United States of America v. Ladonna Wiggins*, (S.D. Tex. 2021) (No. 4:21-cr-66); Complaint and Affidavit in Support of Application for an Arrest Warrant, *United States of America v. Leon Miles*, (E.D.N.Y. 2021) (No. 20-MJ-1234); *see generally* Accountable.US, *COVID Bailout Tracker* (online at <https://covidbailouttracker.com/>) (accessed on May 20, 2021).

<sup>19</sup> *How Newbie Firms Got PPP Loans Through Quickie Lender Kabbage*, Miami Herald (Sep. 10, 2020) (online at [www.miamiherald.com/news/state/florida/article245599035.html](http://www.miamiherald.com/news/state/florida/article245599035.html)).

<sup>20</sup> *PPP Scammers Used Fintech Companies to Carry Out Fraud*, Bloomberg (Oct. 7, 2020) (online at [www.bloomberg.com/news/articles/2020-10-07/ppp-loans-scammers-used-fintech-companies-to-carry-out-fraud](http://www.bloomberg.com/news/articles/2020-10-07/ppp-loans-scammers-used-fintech-companies-to-carry-out-fraud)).

<sup>21</sup> Criminal Complaint, *United States of America v. Jean R. Lavanture a/k/a Rudy Lavanture*, (N.D.N.Y. 2020) (No. 20-MJ-00452).

<sup>22</sup> *How Newbie Firms Got PPP Loans Through Quickie Lender Kabbage*, Miami Herald (Sep. 10, 2020) (online at [www.miamiherald.com/news/state/florida/article245599035.html](http://www.miamiherald.com/news/state/florida/article245599035.html)).

business entities—the overwhelming majority of which were self-categorized as farms. The illegitimacy of these purported farms—including potato fields in Florida and orange groves in Minnesota—would have been obvious if even the bare minimum of due diligence had been conducted on the loan applications.<sup>23</sup>

The Select Subcommittee has consistently advocated for increasing access to loans and capital to those in underserved markets, including businesses owned by veterans, members of the military, socially and economically disadvantaged individuals, and women.<sup>24</sup> In achieving this goal, both now and in the future, FinTechs and their bank partners may have an important role to play through participation in small business loan programs. However, future partnerships must be contingent on FinTechs and their bank partners' demonstrated ability to properly administer taxpayer funds and not jeopardize the integrity of the programs in which they participate.

To help the Select Subcommittee better understand the PPP fraud detection processes applied by FinTech lenders and their bank and non-bank partners, please produce the following documents and information, accounting for the activities of Kabbage and all of its successor and predecessor entities, by June 11, 2021.

1. All documents and policies establishing or governing the process that Kabbage used to review and approve PPP loan applications.
2. All documents and policies related to:
  - a. any system of preventive controls that Kabbage has used to deter and minimize fraud related to PPP loans; and
  - b. any system of detective controls Kabbage had in place to identify and respond to PPP loan fraud after it had occurred.
3. All communications concerning potential fraud or other financial crime related to PPP loans, including, but not limited to, emails, persistent chat room logs and transcripts, direct electronic messages, and minutes of senior leadership meetings.
4. All training materials provided to employees and contractors from January 2020 to the present related to fraud control and prevention, PPP loans, financial crime investigations, and suspicious activity reporting.

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<sup>23</sup> *Hundreds of PPP Loans Went to Fake Farms in Absurd Places*, ProPublica (May 18, 2021) (online at [www.propublica.org/article/ppp-farms](http://www.propublica.org/article/ppp-farms)).

<sup>24</sup> *See, e.g.,* Select Subcommittee on the Coronavirus Crisis, *Press Release: New PPP Report Shows Trump Administration and Big Banks Left Behind Struggling Small Businesses* (Oct. 16, 2020) (online at <https://coronavirus.house.gov/news/press-releases/new-ppp-report-shows-trump-administration-and-big-banks-left-behind-struggling>); Letter from Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis, to Secretary Steven Mnuchin, Department of the Treasury, and Administrator Jovita Carranza, Small Business Administration, (June 15, 2020) (online at [www.coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2020-06-15.Select%20Committee%20to%20Mnuchin%20Carranza-%20SBA%20re%20PPP.pdf](http://www.coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2020-06-15.Select%20Committee%20to%20Mnuchin%20Carranza-%20SBA%20re%20PPP.pdf)).

5. All documents, including audits, monthly statistics, and external reviews, containing assessments or estimates of the amount and value of improper payments that have been made to PPP applicants whose loans were processed through or facilitated by Kabbage.
6. The completed SBA Form 3507.

Please also provide written responses to the following information requests by June 11, 2021:

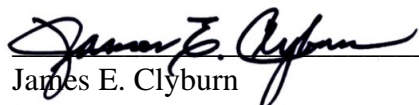
1. How much is Kabbage's total revenue from facilitating PPP loans to date?
2. How many PPP loan applications and loans have been approved, issued, or otherwise facilitated by Kabbage, broken down by week, from April 2020 to the present?
3. How many PPP loan applications have been denied or rejected by Kabbage, broken down by week, from April 2020 to the present, and what was the reason for denial or rejection?
4. How many Kabbage employees have been dedicated full time and exclusively to AML, BSA, or fraud compliance, including those employed full time to prevent, detect, or investigate potential fraud, broken down by week, from January 2019 to the present?
5. Please provide a list of all fraud checks conducted by Kabbage on PPP loan applications, a description of how each check serves to detect and prevent fraud, and the average time taken to approve or reject a PPP loan application.
6. Please provide a list of all fraud checks conducted by Kabbage on loan applications unrelated to PPP, a description of how each check serves to detect and prevent fraud, and the average time taken to approve a loan application unrelated to PPP.
7. What is Kabbage's assessment or estimate of the number and value of potentially fraudulent PPP loans that it has issued, approved, or otherwise facilitated to date?
8. Please provide a description of what indicators and information Kabbage's automated systems use to detect fraud or money laundering and how many and what percentage of applications were rejected through this system; please also describe what indicators trigger these automated systems to escalate an application for human review and what percentage of those escalations resulted in rejected applications.

9. Please provide a detailed description of Kabbage's relationship with any non-bank or bank partners involved in PPP loans, including the name of each entity, revenue sharing and liability sharing agreements.
10. Please provide a detailed description of how your company recruited PPP loan applicants, including marketing strategies and advertising plans.
11. Please provide a detailed description of any incentives or rewards provided to Kabbage employees processing PPP loan applications, including monetary bonuses and non-monetary rewards.

These requests are consistent with the House of Representatives' authorization of the Select Subcommittee on the Coronavirus Crisis "to conduct a full and complete investigation" of "issues related to the coronavirus crisis," including the "efficiency, effectiveness, equity, and transparency of the use of taxpayer funds and relief programs to address the coronavirus crisis" and "reports of waste, fraud, abuse, price gouging, profiteering, or other abusive practices related to the coronavirus crisis."<sup>25</sup>

Please respond to this letter by no later than June 4, 2021, to confirm your company's cooperation. 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) 225-4400.

Sincerely,

  
James E. Clyburn  
Chairman

Enclosure

cc: The Honorable Steve Scalise, Ranking Member

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<sup>25</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.