

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

Mr. Darren D. Hawkins  
Chief Executive Officer  
Yellow Corporation  
10990 Roe Avenue  
Overland Park, KS 66211

Dear Mr. Hawkins:

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 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 eligibility for and use of the funds, I write to seek documents and information to determine whether Yellow provided inaccurate or misleading information in seeking to obtain a national security loan, and whether loan funds were inappropriately used for purposes unrelated to losses caused by the coronavirus crisis.

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 could qualify for national security loans if it was "performing under a defense contract of the highest national priority or operating under a top-secret facility security clearance," or by obtaining 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." This guidance reiterated that the loan funds could only be used to "offset covered losses incurred directly or indirectly as a result

---

<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.

of the coronavirus pandemic.”<sup>3</sup>

On July 1, 2020, Treasury announced the first loan under the program, a \$700 million loan to trucking company YRC Worldwide (now Yellow). Treasury said that it had relied on a certification by the Secretary of Defense that Yellow was “critical to maintaining national security,” and stated that Yellow “provides 68% of less-than-truckload [LTL<sup>4</sup>] services to the Department of Defense.”<sup>5</sup> It is unclear from where Treasury or the Department of Defense (DOD) derived this figure.

Shortly after Treasury’s announcement of the Yellow loan, the bipartisan Congressional Oversight Commission (the Commission) began an inquiry into Yellow’s receipt of such a large national security loan and how DOD determined that Yellow was “critical to maintaining national security.”<sup>6</sup> Subsequent disclosures to the Commission from DOD, however, have not substantiated the claim that Yellow regularly provides such a large share of DOD’s LTL trucking services.<sup>7</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 DOD’s LTL expenditures suggested Yellow only provided between 20 and 40 percent of DOD’s LTL services.<sup>8</sup> The Commission’s April 2021 report further indicates that DOD received information from Yellow’s prime contractor suggesting that Yellow was in fact not critical to national security, because the company provides only limited LTL services to DOD and the loss of Yellow’s services could be readily replaced by other companies in the trucking industry.<sup>9</sup> This raises serious questions about the source of potentially inaccurate information supporting the decision to grant Yellow a significant national security loan.

---

<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>).

<sup>4</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>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>); 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>6</sup> *Id.*

<sup>7</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>8</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>9</sup> *Id.*

The Commission has also raised serious questions about whether Yellow properly sought, obtained, and spent the \$700 million taxpayer-funded loan to ameliorate “losses incurred as a result of coronavirus.”<sup>10</sup> Yellow has used a substantial share of the loan funds to replace the tractors and trailers in its fleet as a part of a long-term capital investment plan, which appears to be at odds with the CARES Act.<sup>11</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>12</sup> Yellow also allegedly made false statements to cover up these overcharging practices.<sup>13</sup> In 2018, the Department of Justice (DOJ) sued Yellow for this overcharging scheme.<sup>14</sup> That case is still pending.<sup>15</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>16</sup>

Further, Yellow’s financial weaknesses before the onset of the coronavirus crisis also suggested that a taxpayer-funded loan to Yellow would be unreasonably risky and that the company may have sought the loan for reasons unrelated to losses caused by the pandemic. The

---

<sup>10</sup> CARES Act, § 4003(a); 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>).

<sup>11</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/)); 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>).

<sup>12</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>13</sup> *Id.*

<sup>14</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)); Congressional Oversight Commission, *The Sixth Report of the Congressional Oversight Commission* (Oct. 29, 2020) (online at [https://coc.senate.gov/sites/default/files/2020-10/The%20Sixth%20Report\\_Final%20%28002%29\\_0.pdf](https://coc.senate.gov/sites/default/files/2020-10/The%20Sixth%20Report_Final%20%28002%29_0.pdf)).

<sup>15</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>16</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.

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>17</sup> In line with these requirements, Treasury created an underwriting process to assess the risk of loan applications, which was 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>18</sup> As of mid-2020, Yellow reportedly had over \$825 million in debt that had accrued before the pandemic.<sup>19</sup> Trade publications had raised concerns that Yellow was at risk of a “potential bankruptcy” and that its “capital structure will be unsustainable over the long term.”<sup>20</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>21</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. The interest rate charged does not appear to reflect “the risk of the loan” as required by the CARES Act.<sup>22</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

---

<sup>17</sup> CARES Act, § 4003(c)(2).

<sup>18</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)).

<sup>19</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-ycr-worldwide-cares-act/](http://www.washingtonpost.com/business/2020/07/01/treasury-loan-ycr-worldwide-cares-act/)).

<sup>20</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>21</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/ycr-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>22</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).

led by Apollo Global Management LLC (Apollo).<sup>23</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 the company may have applied similar pressure in this instance.<sup>24</sup> Further suggesting Yellow's receipt of the 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>25</sup> The former Treasury Secretary's post-loan statements about the risk involved in making the loan to Yellow, in combination with DOD's disclosures undermining the assessment that Yellow was critical to national security and Yellow's connection to a firm that was pressing for relaxed CARES Act risk requirements, raise concerns about the source of potentially inaccurate information provided in the process of granting Yellow's loan.

The Government Accountability Office (GAO) has also identified abnormalities that raise further questions about the process for approving Yellow's loan and whether outside pressure or inaccurate information may have contributed to an imprudent disbursement of taxpayer funds. GAO 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>26</sup>

The Select Subcommittee is concerned both with Yellow's receipt and use of a national security loan under the CARES Act, and with the Trump Administration's apparent mismanagement of this program. For these reasons, please produce by June 17, 2021, the following documents and information from March 1, 2020, to the present:

1. Yellow's application for a loan from Treasury under the CARES Act program for loans and loan guarantees for businesses "critical to maintaining national security" (hereafter "a national security loan") and any amendments to that application.

---

<sup>23</sup> YRC's New Financing Is Part of Its Latest Restructuring, Freight Waves (Sept. 11, 2019) (online at [www.freightwaves.com/news/yrcs-new-financing-is-part-of-its-latest-restructuring](http://www.freightwaves.com/news/yrcs-new-financing-is-part-of-its-latest-restructuring)).

<sup>24</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>25</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>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)).

2. All supporting documentation provided to Treasury in support of Yellow's application for a national security loan from Treasury.
3. All documents and communications related to Yellow's application for a national security loan from Treasury, including documents and communications regarding DOD's process for certifying that Yellow was "critical to maintaining national security."
4. All communications with Apollo Global Management LLC or the White House related to (i) Yellow's efforts to obtain any loan or other means of financial support from the federal government, including, but not limited to, Yellow's application for a national security loan from Treasury, (ii) CARES Act relief and loan program requirements and policies, or (iii) Yellow's financial condition.
5. A list of all agents, including lobbyists or other representatives, that communicated on Yellow's behalf with Treasury, DOD, and/or the White House regarding matters related to Yellow's application for a national security loan from Treasury, including regarding DOD's process for certifying that Yellow was "critical to maintaining national security."
6. All assessments or analyses of the negative impact of the coronavirus pandemic on Yellow's business, including estimates of losses caused by the pandemic.
7. All documents reflecting Yellow's assessments or estimates of the percentage of DOD's LTL services that were provided by Yellow in 2018, 2019, and 2020.
8. Documents sufficient to demonstrate with specificity Yellow's uses of its national security loan funds, including through purchase agreements, contracts, and/or documents itemizing expenditures of loan funds.

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 "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>27</sup>

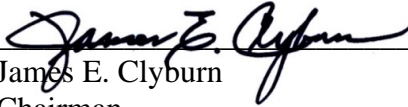
Please respond to this letter by no later than June 10, 2021, to confirm your company's cooperation. An attachment to this letter provides additional instructions for responding to the Select Subcommittee's request. If you have any questions regarding this request, please contact Select Subcommittee staff at (202) 255-4400.

---

<sup>27</sup> H.Res. 8, sec. 4(f), 117th Cong. (2021); H.Res. 935, 116th Cong. (2020).

Mr. Darren D. Hawkins  
Page 7

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.