GAO GOVERNMENT ACCOUNTABILITY & OVERSIGHT

January 13, 2022

Mr. Michael Ptasienski
Inspector General
United States House of Representatives
386 Ford Building
Washington, DC 20515-9990
Via Email to: HouseIG@mail.house.gov

Dear Inspector General Ptasienski,

We write pursuant to Res. 423, the House Administration Reform Resolution of 1992 amending the Rules of the House of Representatives. As noted by the Congressional Research Service (CRS) (https://sgp.fas.org/crs/misc/IF11024.pdf) (emphases added):

> **The House IG is authorized to accept alleged violations of law or misconduct by House employees and to investigate** … **acceptance of gratuities**, mismanagement and waste of funds, conflicts of interest, abuse of authority, theft or abuse of government property, computer crimes, purchase card fraud, **improper use of House resources, and violations related to administration of the House**. Should the IG receive information outside of its authority, it is to refer the information to other House entities (e.g., the House Ethics Committee), or noncongressional entities (e.g., the Department of Veterans Affairs), as appropriate.

The following information pertains to the use of privately financed or unpaid services and other in-kind support for the performance of official House business. It specifically suggests, in some detail, that outside parties are underwriting the provision of outside professional staff to, at minimum, the House Committee on Oversight & Reform, including specifically for a recently initiated "year-long" investigation that includes subpoenas issued to other private parties.

This development, which on its face is in violation of House Rules (XXIV) and ethics requirements, represents the extension of a new but rapidly expanding practice of privately underwriting governmental staff, for "climate" policy and even investigating private parties viewed as impeding advancement of the climate policy agenda.

This practice appears to have begun in 2018 when, public records reveal, certain governors' staff prepared a budget for private underwriting of "climate" staff, off the books, on the express reason that "it can't always be us staff" staffing elected officials.[1] These aides

[1] Email available at https://climatelitigationwatch.org/wp-content/uploads/2018/09/It-cant-always-be-us-staff-copy.pdf; this and other records released under the Washington Public Records Act are available at

boasted of a "plethora of advocate and funder interest" in the project[2], and set forth a private budget of $50 million per year[3], just for governors' off-books staffing on climate, with the admonition, "before you gasp, please note that foundations are currently spending over $1 billion a year on climate work"[4]. Subsequently, a private entity with which these staff then engaged, a "US Climate Alliance" (a "coalition" with no corporate form but run by the United Nations Foundation on a contract with the Hewlett Foundation[5]), has begun providing "Fellows" to governors to perform professional staff work to advance "climate" policy.[6]

A January 2018 *Wall Street Journal* editorial on that effort asked a question relevant to the instant matter:

> "World Resources Institute spokesman Michael Oko says that "public-private partnerships enable governments to hire [sic] experts to advise them on policies that benefit their constituents," adding that they are "common across the political spectrum." Oh? ... Substitute the Koch brothers for the World Resources Institute, and the outrage would be predictable. This setup creates real concerns about accountability and interest-peddling. …Where else are such special interest groups paying to influence policy?"[7]

As the following shows, the answer to that question now includes the House of Representatives.

Concurrent with this program to staff governors' offices to promote the "climate" agenda, activist billionaire Michael Bloomberg gave millions of dollars to privately staff progressive state attorneys general to push climate lawsuits.[8] Public records show that at least eleven state attorneys general offices brought in at least eighteen privately hired and paid attorneys under this program to, under the auspices of those offices' authorities, *inter alia*, conduct "climate"

Christopher Horner, "Government for Rent," Competitive Enterprise Institute, September 2018, https://cei.org/sites/default/files/Christopher%20Horner%20-%20Government%20for%20Rent_0.pdf.

[2] https://climatelitigationwatch.org/wp-content/uploads/2018/09/FN-9-10-20-22-59-62-73-Plethora-of-activist-and-funder-interest-in-govs-doing-this-copy.pdf. See also, Horner, "Government for Rent".

[3] https://climatelitigationwatch.org/wp-content/uploads/2018/09/FN-13-15-42-43-45-46-USCA-slides-and-initial-budget-with-pass-throughs-copy.pdf. See also, Horner, "Government for Rent".

[4] https://climatelitigationwatch.org/wp-content/uploads/2018/08/FN-1-Dan-Carol-Before-you-gasp-copy.pdf; this and other records available at Horner, "Government for Rent".

[5] See, Horner, "Government for Rent".

[6] See, e.g., emails and other records soliciting participant offices, released under New Mexico, Virginia and Washington State open records laws, at https://govoversight.org/wp-content/uploads/2022/01/USCA-Fellows-docs.pdf.

[7] Editorial, "Climate of Unaccountability," *Wall Street Journal*, January 11, 2018, https://www.wsj.com/articles/climate-of-unaccountability-1515717585.

[8] See, e.g., Juliet Eilperin, "NYU Law launches new center to help state AGs fight environmental rollbacks," Washington Post, August 16, 2017, www.washingtonpost.com/politics/nyu-law-launches-new-center-to-help-state-ags-fight-environmental-rollbacks/2017/08/16/e4df8494-82ac-11e7-902a-2a9f2d808496_story.html. See also, "State AGs for Rent: Privately funded litigators wield state police power", *Wall Street Journal*, November 6, 2018, https://www.wsj.com/articles/state-ags-for-rent-1541549567, and Christopher Horner, "Law Enforcement for Rent", Competitive Enterprise Institute, August 2018, https://cei.org/sites/default/files/Christopher%20Horner%20-%20Law%20Enforcement%20for%20Rent%20with%20Appendix.pdf.

investigations and litigation against political opponents and assist private tort litigation, if the office promises to "advanc[e] progressive clean energy, climate change, and environmental legal positions" and demonstrate it "needs additional attorney resources to assist" advancing this agenda.[9]

Now, the extant record cited herein reveals, that same model of donor-provided private consultants has begun providing professional staff services to congressional investigating committees to push the climate agenda, completely off the books, and apparently in violation of House Rule XXIV.

This evidence strongly suggests the existence of a more fulsome record pertaining to the use of outside private donations, funds, or in-kind goods or services to conduct and support the activities of, or pay the expenses of, a congressional office in violation of House Rules, that we respectfully recommend the IG investigate.

There is an inherent and great public interest in private influence, governmental secrecy, and governmental compliance with its own rules, as well as the nation's laws. This extends to the federal legislative branch. The interest is of heightened importance when an element of adjudication is at play, as with oversight hearings and where, as here, subpoenas have been issued and according to congressional leadership more likely are forthcoming. It is of paramount importance that the Inspector General determine whether the process is tainted by violations of the House Rules or by improper financing of congressional efforts.

Factual Background and Public Interest

October 2021 House Oversight & Reform Committee Hearing

As background, on October 28, 2021, the United States House of Representatives Committee on Oversight & Reform ("the Oversight Committee") held a hearing it titled "Fueling the Climate Crisis: Exposing Big Oil's Disinformation Campaign to Prevent Climate Action"[10], after having requested records from the entities whose executives were called to testify.

News reports state that, the week prior to the hearing, Subcommittee Chairman and co-leader of the hearing California Representative Ro Khanna, and full Committee Chair Carolyn Maloney of New Yok, informed activists this was the first in a year-long series of events and expressed the prospect of the Committee pursuing "perjury" charges against witnesses.[11]

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[9] https://climatelitigationwatch.org/wp-content/uploads/2018/08/FN-3-Organic-NYU-Hayes-email-to-OAGs-copy.pdf. See also, Horner, "Law Enforcement for Rent."

[10] https://oversight.house.gov/legislation/hearings/fueling-the-climate-crisis-exposing-big-oil-s-disinformation-campaign-to

[11] "Maloney and Khanna, whose perjury warning came during a call this week with the political action group Our Revolution, will face challenges from the unusual nature of the event." Corbin Hilar, "Lawmakers study Big Tobacco perjury before Big Oil showdown," October 27, 2021, E&E News, https://www.eenews.net/articles/lawmakers-study-big-tobacco-perjury-before-big-oil-showdown-2/.

At this first hearing, reading from prepared remarks, Chairwoman Maloney condemned the witnesses for refusing that day to promise no further funding of disfavored speech or groups including but not limited to industry trade associations; to stop engaging in disfavored public speech; or to produce "internal documents or internal communications" about their public speech. (Video at https://www.youtube.com/watch?v=xchA94oDXmI.)

The Chair then "announced her intent to issue subpoenas to" the witnesses for internal records to "the Committee's investigation into the fossil fuel industry's climate disinformation campaign." (https://oversight.house.gov/news/press-releases/at-historic-hearing-fossil-fuel-executives-admit-climate-crisis-is-an-urgent)

Already, the extant record suggests that not only is this "year-long" investigation of opponents of a political agenda also a continuation of a years-long campaign by activists and tort lawyers to engage allies with investigative power to assist their activist policy and litigation campaign, but media reports quote Oversight Committee leadership and outside activists acknowledging that certain of the professional staff work executing this investigation is being performed by consultants, and that these consultants have been provided to the Oversight Committee for this purpose by private donors.

Campaign: Background to Oversight Committee "Year-long" Investigation, Subpoenas

Beginning in 2015, there began a series of public-private collaborations to deploy judicial or quasi-judicial functions of government against political opponents of the "climate" agenda, are at least in part intended to do so to assist private and governmental tort, "consumer fraud", and other litigation targeting private parties' climate-related speech (*infra*).

The campaign to investigate and prosecute political opponents of the "climate" agenda then led to state attorney general investigations of private parties and targeting of more than 100 research and advocacy groups, scientists and other private parties and entities[12] (which subpoenas were withdrawn when challenged as facially improper violations of First Amendment rights. See, e.g., "First Amendment Fight: CEI's Climate Change Subpoena," (April 20, 2016), https://cei.org/publication/first-amendment-fight-ceis-climate-change-subpoena/).

The public record reflects that those state-level investigations were prompted by lobbying by activists and tort lawyers.[13] The public record also reflects that this weaponization of

[12] *See, e.g.,* Valerie Richardson, "Exxon climate change dissent subpoena sweeps up more than 100 U.S. institutions", Washington Times, May 3, 2016, https://www.washingtontimes.com/news/2016/may/3/virgin-islands-ag-subpoenas-exxon-communications/; Walter Olson, "Massachusetts AG to Exxon: hand over your communications with think tanks", June 16, 2016, https://www.overlawyered.com/2016/06/+setts-ag-exxon-hand-communications-think-tanks/.

[13] See, e.g., Findings of Fact and Conclusions of Law, Exxon Mobil Corporation, Petitioner, Cause No. 096- 297222-18, District Court of Tarrant County, TX, April 25, 2018, https://climatelitigationwatch.org/wp-content/uploads/2019/10/Tarrant-County-Facts-and-Conclusions.pdf; See also, Proposed Amicus Curiae Brief of Energy Policy Advocates, *State of*

government against private parties to discredit, pressure, and even prosecute political speech on "climate" was co-organized with donors, activists, the tort bar and what one meeting agenda released in state-level open records litigation called "prospective funders"[14].

The public record also affirms that this campaign extended beyond state attorneys general to calls by elected officials for, and inquiry by the U.S. Department of Justice into, use of the Racketeer Influenced and Corrupt Organizations ("RICO") Act against opponents of the "climate" agenda.[15]

Whether or not the new round of hearings described, *supra*, is aimed at engineering referrals to the Department of Justice as part of that intervention by the Attorney General promised by the Biden-Harris campaign, the information set forth herein strongly indicates an expansion, to the federal legislative branch, of those previous "Lawfare"[16] initiatives targeting disfavored, protected speech, and those who engage in it. To the extent that such activities are financed or arranged by private parties targeting other private parties and enlisting Congressional committees as subpoena-wielding mercenaries, the Inspector General has jurisdiction to investigate these activities to ensure compliance with the House Rules and applicable funding restrictions.

Practice of Private, Off-Books Staff Extends to Congressional Offices

As detailed, *supra*, the use of privately funded and arranged consultants to staff congressional operations would is represent the expansion of a practice which seemingly sprung from whole cloth in recent years, in which government at the state level including governors and attorneys general join in public-private collaborations to deploy judicial or quasi-judicial functions of government against political opponents of a particular policy agenda (the "climate" agenda).[17]

Minnesota v. American Petroleum Institute, United States Court of Appeals for the Eighth Circuit, 21-1752, https://climatelitigationwatch.org/wp-content/uploads/2021/08/622288_EPA-amicus_brf.pdf.

[14] See https://climatelitigationwatch.org/wp-content/uploads/2018/08/BOOM-OAGs-flew-in-for-briefing-for-UCS-prospective-funders.png and https://climatelitigationwatch.org/wp-content/uploads/2018/08/Harvard-agenda-RICO-etc-scheme-players.pdf.

[15] See, e.g., March 2016 colloquy between Sen. Sheldon Whitehouse (D-RI) of the Senate Judiciary Committee and then-Attorney General Loretta Lynch at https://www.c-span.org/video/?c4584506/user-clip-lynch-doj-discussed-lnvestigating-big-oils-climate-denial.) Subsequent to this, the Biden-Harris presidential campaign promised that, if elected, "Biden will instruct the Attorney General to… strategically support ongoing plaintiff-driven climate litigation against polluters" (https://joebiden.com/environmental-justice-plan/

[16] Memorandum Opinion by Justice Kerr, *San Francisco, et al., V. Exxon Mobil Corp,* Court of Appeals for the Second Appellate District (TX), No.02-18-00106-CV, at p. 48, https://eidclimate.org/wp-content/uploads/2020/06/1284000-1284588-02-18-00106-cv-majority-opinion-kerr.pdf, now pending as *Exxon Mobil Corp. v. City of San Francisco, et al.*, Tx. Sup. Ct. 20-0558.

[17] Also *see generally* Government Accountability & Oversight, P.C., "Private Funders, Public Institutions: 'Climate' Litigation and a Crisis of Integrity" (May 18, 2021) (https://climatelitigationwatch.org/wp-content/uploads/2021/05/GAO-EPA-CCI-RFF-Climate-Paper.pdf).

Information in the public record, including Chairman Khanna's admissions to activists[18], indicates that among the consultants whom the Oversight Committee enlisted are outside activists who called on Congress to investigate at least some of the same private parties, once again, "to request documents and, if necessary, issue subpoenas"[19].

Information in the public record including Chairman Khanna's admissions and other materials in the public domain, also indicates that two of the outside parties brought in as consultants to execute this new quasi-judicial pursuit of private parties are part of an organization called Co-Equal.[20]

Co-Equal's own website, and media coverage announcing its "unique approach" of "volunteer[ing] their skill set to the House and Senate as Congress rebuilds its oversight muscle"[21], boast that the entity was established — as a project of what media reports describe as a "Democratic Dark Money Juggernaut," "the 'mothership' behind a network of Democratic dark money nonprofit groups" [22] — to provide consulting services to burnish the staffs of

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[18] See, e.g., "I know Professor Oreskes very well. We just spoke a few days ago and … she's informed a lot of my thinking", October 25, 2021, https://www.facebook.com/PoliticalRevolution/videos/398395635078831, at 30:45. Prof. Naomi Oreskes "conceived" a "workshop" that produced Climate Accountability Institute, *Establishing Accountability for Climate Change Damages: Lessons from Tobacco Control* (Oct. 2012), Summary of the Workshop on Climate Accountability, Public Opinion, and Legal Strategies, http://www.climateaccountability.org/pdf/Climate%20Accountability%20Rpt%20Oct12.pdf. "State attorneys general can also subpoena documents, raising the possibility that a single sympathetic state attorney general might have substantial success in bringing key internal documents to light. In addition, lawyers at the workshop noted that even grand juries convened by a district attorney could result in significant document discovery." Id. at p. 11. See also Findings of Fact and Conclusions of Law, Exxon Mobil Corporation, Petitioner, Cause No. 096- 297222-18, District Court of Tarrant County, TX, April 25, 2018, https://climatelitigationwatch.org/wp-content/uploads/2019/10/Tarrant-County-Facts-and-Conclusions.pdf, ¶¶ 11-12. Also, in January 2020 Oreskes published an op-ed calling for Congress to investigate and subpoena energy companies, which the Oversight Committee has now done.

[19] Geoffrey Supran and Naomi Oreskes, "Big oil is the new big tobacco. Congress must use its power to investigate," *The Guardian*, January 20, 2020, https://www.theguardian.com/commentisfree/2020/jan/20/big-oil-congress-climate-change.

[20] See, e.g., "Khanna said the committee has enlisted the aid of 'a lot of people' involved in planning the Waxman hearings for advice and planning." See, e.g., Zack Burdyk, "Democrats call for oil company executives to testify on disinformation campaign," *The Hill*, September 16, 2021, https://thehill.com/policy/energy-environment/572612-democrats-call-for-oil-company-executives-to-testify-on, and https://www.co-equal.org/team.

[21] Carl Hulse, "Congressional Veterans Pitch In to Rebuild Oversight Muscle," *New York Times*, June 22, 2019, https://www.nytimes.com/2019/06/22/us/politics/congress-oversight-muscle.html.

[22] Co-Equal's website also acknowledges it operates under the umbrella of Arabella Advisors ("Co-Equal is a project of the Hopewell Fund, a 501(c)(3) public charity. Co-Equal Action, is a project of the Sixteen Thirty Fund, a 501(c)(4) social welfare organization", and Sixteen Thirty Fund is a part of Arabella (see https://www.arabellaadvisors.com/expertise/fiscal-sponsorship/). Arabella is described in news reports as "the 'mothership' behind a network of Democratic dark money nonprofit groups," a "Democratic Dark Money Juggernaut". Andrew Kerr, "Democratic Dark Money Juggernaut Called Security On Watchdog Instead Of Releasing Their Tax Information," DailyCaller.com, November 16, 2021, https://dailycaller.com/2021/11/16/caitlin-sutherland-arabella-advisors-form-990s/. See also, e.g., Joe

congressional allies, "funded by donors …to consult with congressional aides seeking guidance on messaging or how to move ahead with inquiries" as reported by the *New York Times*. See, e.g., "Co-Equal can help balance the scales… It can provide strategic advice on the legislative process and oversight. And it can connect congressional offices with experts who can level the information playing field." [23]

As you are aware "volunteer" is a term of art, which does not apply to the described arrangement (see House Committees' Congressional Handbook, Volunteers, pp. 7-8, House Ethics Manual at p. 288, and FN 28, *infra*). The services as publicly described are those of "consultants"; and privately supplied consultants performing the work described fall outside of what is permissible under House Rules and ethics requirements (see discussion, pp. 7-10, *infra*).[24]

House Rules and Ethics Requirements

Such arrangements are governed by state- and office-specific law and regulations. They are often prohibited and, where not prohibited, are subject to certain approval and disclosure requirements. The record shows that these limitations and even prohibitions are not always followed.

Here, as you are aware, the U.S. House of Representatives' rules prohibit the use of outside private donations, funds, or in-kind goods or services to conduct and support the activities of, or pay the expenses of, a congressional office. House Rule XXIV appears to prohibit on its face this practice of allowing private actors to fund or staff Congressional investigations.

The House Committee on Ethics interprets "RULE XXIV, LIMITATIONS ON USE OF OFFICIAL FUNDS, Limitations on use of official and unofficial accounts", in pertinent part:

Schoffstall, Cameron Cawthorne, "Liberal dark money juggernaut raises $1.6 billion to flood left-wing groups with cash, tax forms reveal," Fox News, November 27, 2021, https://www.foxnews.com/politics/dem-dark-money-juggernaut-raises-1-6-billion-flood-liberal-groups-cash-tax-forms; "Big Money In Dark Shadows: The Arabella Advisors' Half-billion-dollar 'Dark Money' Network,'" Capital Research Center, April 29, 2017, https://capitalresearch.org/article/crc-exposes-left-wing-dark-money/; Editorial, "Questions for Senator Whitehouse A chance to ask the Democrat about his ties to 'dark money'", Wall Street Journal, September 21, 2020, https://www.wsj.com/articles/questions-for-senator-whitehouse-11600729418?mod=opinion_lead_pos1.

[23] https://www.co-equal.org/need.

[24] The public record shows that two of these same donor-provided consultants who meet Chairman Khanna's fairly specific description of who he has brought in for the above-described House Oversight investigation of private parties, who are publicly listed as founding and being provided through Co-Equal, explained this model to ideologically aligned governors' aides when offering their consulting services as part of the above-described campaign to privately staff governors' offices with off-the-books "climate" consultants at up to $50 million per year of private funding. Memorandum and related correspondence released under Washington State's Public Records Act available at https://climatelitigationwatch.org/wp-content/uploads/2021/12/The-Phils-Pitching-Their-Influence.pdf.

> "Proper Performance of Congressional Duties… the provisions of the House Rules prohibiting unofficial office accounts generally preclude Members from accepting privately financed or unpaid services (as well as other in-kind support) for the performance of official House business (House Rule 24, cl. 1). Accordingly, a staff person should not perform congressional duties during time for which the individual is being compensated by a private outside employer, and should not use any resources of a private outside employer for the performance of congressional duties."[25]

The House Ethics Committee also writes: "House Rule 24 prohibits 'unofficial office accounts.' Accordingly, outside private donations, funds, or in-kind goods or services may not be used to support the activities of, or pay the expenses of, a congressional office. Only appropriated funds or Members' personal funds may be used for this purpose. House Rule 24 has been in effect since 1977. Congress codified this rule into law governing both Chambers as part of the Legislative Branch Appropriations Act, 1991."[26]

Whatever the role of these outside, private operatives in executing quasi-judicial pursuits of opponents through public institutions, they have a status which should be definable within the applicable rules and, in part given those rules, should be known to the public, for whom the consultants are unofficially but nonetheless *de facto* working. The public deserves to know whether the work of the Congress is being financed by motivated outside parties, as the information presented herein attests seemingly with no margin for explanation otherwise.

The U.S. House of Representatives' Rules[27] are interpreted and applied by the House Committee on Administration, which interpretation prescribes with specificity the requirements for use of Consultants,[28] in addition to the House Rules and U.S. Code prohibiting the free provision of professional staff services with certain, clearly defined exceptions none of which apply here. The Committee makes clear that, under the Rules, Consultants must be contracted for, and paid for within appropriated funds, with those contracts subject to an open approval process and public scrutiny. The relevant language is quite prescriptive (emphases added):

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[25] Laws, Rules, and Standards of Conduct, House Committee on Ethics, https://ethics.house.gov/outside-employment-income/laws-rules-and-standards-conduct.

[26] https://ethics.house.gov/official-allowances/unofficial-office-accounts, citing to "See also 31 U.S.C. § 1342 (prohibiting acceptance of voluntary services without specific authorization (augmentation of appropriations), Limitation on voluntary services, "An officer or employee of the United States Government or of the District of Columbia government may not accept voluntary services for either government or employ personal services exceeding that authorized by law except for emergencies involving the safety of human life or the protection of property.").

[27] https://www.govinfo.gov/content/pkg/CPRT-117HPRT43153/pdf/CPRT-117HPRT43153.pdf.

[28] https://cha.house.gov/member-services/handbooks/committees-congressional-handbook#committee%20staff_volunteers. **Detailees** must come "from a Government department or agency"; Re **Contractors**, "Committees may contract with firms or individuals only for general, non-legislative and non-financial office services (e.g., equipment maintenance, systems integration, data entry, staff training)"; and, "The term "**volunteer**" means an individual performing service in a House office without compensation from any source. The voluntary service should be of significant educational benefit to the participant and such voluntary assistance should not supplant the normal and regular duties of paid employees." (emphases added)

Consultants

Pursuant to 2 U.S.C. § 4301, each Committee is authorized, **with the prior approval of the Committee on House Administration**, to obtain *temporary or intermittent services of individual consultants or organizations, to advise the Committee with respect to matters within its jurisdiction*.

1. The term of the contract agreement may not exceed 12 months or the end of a Congress, whichever occurs first.

2. The consultant is to act as an independent contractor and is not an employee of the Committee. The Committee on House Administration will not approve a contract if the services to be provided by the consultant are the regular and normal duties of Committee staff.…

6. Pursuant to House Rule XXIII, clause 18(b), consultants are subject to certain provisions of the House Code of Official Conduct, including the gift rule, the prohibition against use of one's official position for private gain, and the requirement to conduct oneself at all times in a manner that reflects creditably on the House. For information relative to the House Rules, contact the Committee on Ethics at x57103.

7. **Committee Chair must submit a letter requesting approval of the Committee on House Administration along with a signed contract agreement and resume of the proposed consultant**, including, but not limited to, details of federal service either as an employee or pursuant to contract agreement with any Committee of the Congress.

8. **The letter must specify that the proposed contract has been approved by a majority of the Members of the requesting Committee and that no services pursuant to the proposed contract will commence prior to approval of the contract by the Committee on House Administration**.

The Committee on House Administration will make available for public inspection a copy of the qualifications of each consultant.[29]

The record is clear that the parties as described by Chairman Khanna, their own website and their media coverage are conducting and supporting the activities of a congressional office as "Consultants" under the terms of House rules and their interpretations.[30] Any claim that the

[29] https://cha.house.gov/member-services/handbooks/committees-congressional-handbook#employment%20law_consultants.

[30] House rules and 2 U.S.C. § 4301 define consultants, make clear that these donor-provided professionals are consultants, and even require public access to the record of approving and engaging consultants. In the event these custodians claim the consultants referenced herein and who are the subject of the requests at issue in this matter are merely extraordinarily successful lobbyists, the undersigned note that none of the parties whom the record suggests are serving in this capacity, or the organizations providing these staff, are registered as lobbyists according to late December 2021 searches of the House Clerk's website (https://lobbyingdisclosure.house.gov/lookup.asp). See also, "Co-Equal is funded by donors, and those who enlist with it are available to consult with congressional aides seeking guidance on messaging or how

above-described parties are not consultants for the reason that the Oversight Committee elected to not comply with these requirements for engaging contractors is circular logic with no impact on the actual status or the propriety of the arrangement.

The undersigned Mr. Schilling has requested from the House Committee on House Administration all requests for approval and contracts for consultants by the House Committee on Oversight & Reform in the current Congress. He wrote, in pertinent part:

> Pursuant to 2 U.S.C. § 4301(i), and the House Committees; Congressional Handbook, Consultants, p. 14, The Committee on House Administration will make available for public inspection a copy of the qualifications of each consultant" engaged by a House Committee, or its subcommittees, "to obtain intermittent services of individual consultants or organizations, to advise the Committee with respect to matters within its jurisdiction."
>
> Pursuant to those same authorities I request copies of or an appointment to publicly inspect all qualifications for each consultant for or to the House Committee on Oversight & Reform or any of its subcommittees during the 117th Congress. It appears that this information is the information described in the House Committees' Congressional Handbook, Consultants, p. 14 ¶¶ 7-8: (text of ¶¶ 7-8, *supra*, omitted).

On January 10, 2022, the Majority Counsel of the House Committee on Administration wrote to Mr. Schilling no records reflecting compliance on this matter with the process set forth in the House Committees' Congressional Handbook, Consultants, p. 14 ¶¶ 7-8, House Rule 24 and/or 2 U.S.C. § 4301. The majority counsel wrote, in substantive full, "[w]e do not have any such documents."

As such, the reasonable conclusion is that the Committee on Oversight & Reform has not proceeded with the consultants described, *supra*, according to the process set forth in the House Committees' Congressional Handbook, Consultants, p. 14 ¶¶ 7-8, House Ethics Rules, House Rule XXIV and/or 2 U.S.C. § 4301.

This information also strongly suggests that the Oversight Committee has engaged these consultants without following the lawful process for doing so, which as the above-excerpted authorities show includes a required proposal, approval of such proposal, and posting for public inspection of agreements reflecting the consultants' provision of official functions. To the extent that the Oversight Committee is rewriting, in real time, the historical norms and restrictions in the House Rules pertaining to the use of consultants, it is critical the Inspector General investigate this activity, to include a careful review of all records relating to this development and the implications of the "unique approach", and seeming impermissibility, of privately financed Congressional activity under the House Rules and other applicable laws.

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to move ahead with inquiries in the face of stiff White House resistance. One requirement of participating is that the staff cannot be engaged in any lobbying." Hulse, "Congressional Veterans Pitch In to Rebuild Oversight Muscle," *New York Times*, June 22, 2019.

Conclusion

Statements including those made by House Oversight Committee leadership and certain activists strongly suggest that these new hearings described herein are also privately staffed by consultants provided to the Oversight Committee for this purpose by private donors. The website of certain parties described by Chairman Khanna, and news coverage hailing the "unique" provision by at least one of the sources for these consultants, further supports this conclusion.

As with the Federal Bureau of Investigations' now-infamous Operation "Crossfire Hurricane,"[31] here the public has reason to be concerned that privately afforded consultants played a role in engineering compelled testimony and subpoenas to private parties, in what is apparently the first of a "year-long" series of such endeavors targeting political opponents with the partial staffing by outside, donor-provided consultants, possibly without properly contracting with and disclosing the relationship as required by law or attestation that the volunteers serve "without compensation from any source", or, alternately, neither obtaining approval of nor posting the required consultant agreements.

For the reasons set forth above we respectfully suggest your office investigate the propriety or impropriety of the activities described above.

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House Committee on Administration
Zoe Lofgren, Chair
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[31] See, Office of the Inspector General, U.S. Department of Justice, "Review of Four FISA Applications and Other Aspects of the FBI's Crossfire Hurricane Investigation," December 2019 (Revised), https://www.justice.gov/storage/120919-examination.pdf.

[32] Government Accountability & Oversight is a 501(c)(3) non-profit incorporated in Wyoming and dedicated to transparency in government at the local, state and federal levels.

[33] Journalist Robert Schilling hosts The Schilling Show radio program broadcast on Newsradio 1070 and 98.9 FM WINA in Central Virginia, and the founder and editor of a news, analysis, and commentary web site, SchillingShow.com, whose reporting and investigative journalism has been awarded multiple times by the Associated Press and the Virginia Association of Broadcasters, including two "Superior Awards for Best Investigative Reporting" from the Associated Press.

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