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ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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May 27, 2014

Mr. Denis McDonough
Chief of Staff
The White House
Washington, D.C. 20500

Dear Mr. McDonough:

On March 18, 2014, I wrote to you requesting documents and information related to the reopening of the White House Office of Political Affairs (OPA).¹ According to former White House Counsel Kathryn Ruemmler, who provided a written response on March 26, the White House created the new OPA in compliance with the Hatch Act.² Unfortunately, this response contained contradictory information and failed to provide any documents and information requested related to the White House political office.

According to the response from Ms. Ruemmler, the White House Counsel's Office is in "regular contact with the OSC," and has obtained the latest guidance on Hatch Act compliance from OSC.³ This statement, however, directly contradicts information provided to the Committee by Special Counsel Carolyn Lerner. According to a letter from Ms. Lerner to the Committee, the White House did not consult with OSC before reopening OPA, and, as of February 11, 2014, OSC had not heard from the White House.⁴ The apparent lack of communication between the White House and the agency charged with Hatch Act enforcement is particularly surprising. In 2011, OSC released a report calling into question the legality of OPA's use of taxpayer money to support political campaigns.⁵

¹ In January 2014, the White House renamed the Office of Political Affairs (OPA) the Office of Political Strategy and Outreach. The Office of Special Counsel (OSC) previously found that simply renaming OPA is not a "viable solution under the law." See The White House, Press Release, President Obama Announces Key White House Posts (Jan. 24, 2014), available at <http://www.whitehouse.gov/the-press-office/2014/01/24/president-obama-announces-key-white-house-posts>; see also U.S. Office of Special Counsel, *Investigation of Political Activities by White House and Federal Agency Officials During the 2006 Midterm Elections* (Jan. 2011), available at <http://www.scribd.com/doc/47501194/STF-Report-Final>.

² See Letter from Hon. Kathryn H. Ruemmler, Counsel to the President, The White House, to Rep. Darrell E. Issa, Chairman, H. Comm. on Oversight & Gov't Reform (Mar. 26, 2014).

³ *Id.*

⁴ See Letter from Hon. Carolyn Lerner, Special Counsel, U.S. Office of Special Counsel, to Hon. Darrell E. Issa, Chairman, H. Comm. on Oversight & Gov't Reform (Feb. 11, 2014).

⁵ OSC Report, *supra* note 1.

This Committee has a bipartisan history of investigating the illegal use of taxpayer money to influence congressional elections.⁶ Former Chairman Henry Waxman invested substantial Committee time and effort to investigate the use of official resources at the behest of the White House for political purposes.⁷ During then-Chairman Waxman's investigation—which spanned nearly two years—Committee staff interviewed or deposed 18 political appointees, including President Bush's political directors, and received nearly 70,000 pages of documents from the White House and 29 agencies.⁸ Chairman Waxman also issued a subpoena to the Chairman of the Republican National Committee to obtain e-mail records.⁹

The Committee's investigation culminated in a Majority staff report entitled "The Activities of the White House Office of Political Affairs."¹⁰ Chairman Waxman called for the elimination of the office.¹¹ According to the report, "the view that White House officials could legally promote the election of Republican congressional candidates led to an extensive effort prior to the 2006 elections."¹² Chairman Waxman's staff concluded that the White House organized the travel of senior administration officials around politically advantageous locations and specifically used travel as a tool to help elect or re-elect members of their party to public office. The report counted events that senior Administration officials attended, documenting 303 events required travel outside of Washington, D.C.¹³ Chairman Waxman's staff concluded that these events violated the Hatch Act. According to the report, the events "established precisely the type of 'political boiler-room' that the Congress warned against when it amended the Hatch Act in 1993."¹⁴

On January 24, 2014, the same day the White House reinstated OPA, the *New York Times* published an article describing the functions of the new office.¹⁵ According to the *Times*, "White House officials said the move would help the administration respond quickly and efficiently to political requests, especially from senators and House members who face tough battles."¹⁶ The *Times* wrote that "the White House seems eager to send a new message: that it is serious about defending Democratic control of the Senate and taking back the House from Republicans."¹⁷

⁶ See Democratic Staff, H. Comm. on Oversight & Gov't Reform, 110th Cong., *The Activities of the White House Office of Political Affairs* (Oct. 2008), available at <http://oversight-archive.waxman.house.gov/documents/20081015105434.pdf>; see also H. Comm. on Oversight & Gov't Reform, Press Release, Issa Probes White House Office of Political Affairs (June 4, 2010), available at <http://oversight.house.gov/release/issa-probes-white-house-office-of-political-affairs>.

⁷ See Waxman Report, *supra* note 6.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Michael D. Shear, *White House Comeback for Political Affairs Office*, N.Y. TIMES, Jan. 24, 2014, available at <http://www.nytimes.com/2014/01/25/us/politics/white-house-comeback-for-political-affairs-office.html>.

¹⁶ *Id.*

¹⁷ *Id.*

Politico similarly reported that the White House is portraying the new political director as a “one-stop shop for all things midterms.”¹⁸

In February, the *Washington Post* reported that the White House is coordinating with Senate leaders to align the legislative calendar with the Administration’s efforts to help Senators facing difficult reelections.¹⁹ According to the *Post*, the new head of OPA takes part in biweekly strategy meetings with the Democratic Senatorial Campaign Committee’s executive director and Senator Majority Leader Harry Reid’s chief of staff.²⁰

The recent reports by the *New York Times*, *Politico*, and *Washington Post* appear to show the White House is taking part in similar conduct that Chairman Waxman and OSC found to be impermissible. The Waxman staff report states that “American taxpayers should not pay salaries of White House officials when they are engaged in helping to elect members of the President’s political party.”²¹ Similarly, OSC found that “strategically supplying targeted candidates with administration support to secure electoral gains” violates the Hatch Act.²²

In order to ascertain whether the types of political activity Chairman Waxman invested so much time and energy attempting to eradicate is still occurring, the Committee requested all documents and communications, including e-mails, related or referring to the Office of Political Strategy and Outreach or the reopening of the Office of Political Affairs. Regrettably, the April 1, 2014, deadline has passed, and the White House has failed to provide the Committee with requested documents.

The American people have a right to know if their tax dollars are being spent to support congressional campaigns during the 2014 midterm elections in violation of federal law. If the White House continues to withhold documents and information related to the reopening of the White House political office, I will have no alternative but to consider the use of compulsory process to obtain the requested documents.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at “any time” investigate “any matter” as set forth in House Rule X. An attachment to this letter provides additional information about responding to the Committee’s request.

¹⁸ Edward-Isaac Dove, *White House to Launch New Political Office*, POLITICO, Jan. 24, 2014, available at <http://www.politico.com/story/2014/01/white-house-office-of-political-strategy-outreach-102582.html>.

¹⁹ Philip Rucker & Paul Kane, *In 2014 Midterms, Parties See Different Issues and States as Path to Senate Majority*, WASH. POST, Feb. 20, 2014, available at http://www.washingtonpost.com/politics/in-2014-midterms-parties-see-different-issues-and-states-as-path-to-senate-majority/2014/02/19/5a472b70-957f-11e3-8461-8a24c7bf0653_story.html.

²⁰ *Id.*

²¹ Waxman Report, *supra* note 6.

²² OSC Report, *supra* note 1.

Mr. Denis McDonough

May 27, 2014

Page 4

The Committee requests that you produce all materials responsive to the Committee's requests as soon as possible, but by no later than noon on June 3, 2014. Please deliver your response to the Majority Staff in room 2157 of the Rayburn House Office Building and the Minority Staff in room 2471 of the Rayburn House Office Building. The Committee prefers to receive all documents in electronic format.

Please contact Committee staff at (202) 225-5074 with any questions about this request. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Darrell Issa", with a large, stylized flourish extending from the end of the signature.

Darrell Issa
Chairman

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Minority Member

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Minority (202) 225-5051

Responding to Committee Document Requests

1. In complying with this request, you are required to 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. You should also produce 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. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. 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;

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.

6. 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, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.
7. 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.
8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. 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.
12. 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) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. 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, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.
16. 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.

17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents 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 2471 of the Rayburn House Office Building.
19. Upon completion of the document production, you should 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 which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Schedule 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, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other 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, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, 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 which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms “person” or “persons” mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.
5. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term “referring or relating,” 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.
7. The term “employee” means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.