

**Congress of the United States**  
**Washington, DC 20515**

March 22, 2018

Mr. Robert M. Lightfoot, Jr.  
Acting Administrator  
National Aeronautics and Space Administration  
300 E Street SW, Suite 5R30  
Washington, DC 20546

Dear Mr. Lightfoot:

On January 9, 2018, we wrote to you requesting information relating to the National Aeronautics and Space Administration's (NASA) use of taxpayer-funded union official time.<sup>1</sup> Rebecca Lee, NASA's Acting Associate Administrator for Legislative and Intergovernmental Affairs, responded in part on January 29.<sup>2</sup> However, NASA's submission was incomplete, and it failed to provide the names of each employee at NASA who engaged in union official time in fiscal years 2016 and 2017—information specifically requested in our letter.

On March 12, your staff informed us via email that NASA would not provide us the outstanding information.<sup>3</sup> During a subsequent phone call on March 14, your staff explained you personally made the decision not to cooperate with congressional oversight.<sup>4</sup> Your decision hinders the Committees' examination of NASA's use of taxpayer-funded official time and hinders transparency surrounding NASA's stewardship of taxpayer dollars.

Our request to NASA was part of the Committees' oversight of taxpayer-funded union official time across government. To date, fourteen agencies have responded to the Committees. NASA is one of only three agencies that failed to provide names. NASA has not asserted any valid legal justification for withholding this information, and the Privacy Act includes an express exemption for the disclosure of information to Committees of Congress.<sup>5</sup> Accordingly, we reiterate our request of January 9 for the name of each employee who served in taxpayer-funded official time for fiscal years 2016 and 2017 so the Committees can examine official time at your agency, including how participants use official time. Please provide this information no later than 5:00 p.m. on Friday, March 23, 2018.

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<sup>1</sup> Letter from Ron Johnson, Chairman, S. Comm. on Homeland Sec. & Governmental Affairs; Trey Gowdy, Chairman, H. Comm. on Oversight & Gov't Reform; Rand Paul, Chairman, Subcomm. on Fed. Spending Oversight, S. Comm. on Homeland Sec. & Governmental Affairs; Mark Meadows, Chairman, Subcomm. on Gov't Operations, H. Comm. on Oversight & Gov't Reform; Dennis Ross & Jody Hice, Members, H. Comm. on Oversight & Gov't Reform, to Robert Lightfoot Jr., Acting Admin., Nat'l Aeronautics & Space Admin. (Jan. 9, 2018).

<sup>2</sup> See, e.g., Letter from Rebecca Lee, Acting Assoc. Admin. for Legis. and Intergovernmental Affairs, to Trey Gowdy, Chairman, H. Comm. on Oversight & Gov't Reform (Jan. 29, 2018).

<sup>3</sup> Email from Legislative Affairs staff, Nat'l Aeronautics & Space Admin., to majority staff, H. Comm. on Oversight & Gov't Reform (Mar. 12, 2018, 2:25 p.m.) (on file with the H. Comm. on Oversight & Gov't Reform).

<sup>4</sup> Telephone call with Legislative Affairs Staff, Nat'l Aeronautics & Space Admin., and staff of S. Comm. on Homeland Sec. & Governmental Affairs and H. Comm. on Oversight & Gov't Reform (Mar. 14, 2018).

<sup>5</sup> 5 U.S.C. § 552a(b)(9).

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Given your refusal to provide a complete response to the Committees, we are requesting additional information about this decision. Please identify an agency official most knowledgeable about NASA's assertions relating to this matter and make this official available for transcribed interviews with the Committees. Please do this as soon as possible, but no later than Thursday, April 5, 2018. Additionally provide the following documents and information:

1. All documents and communications referring or relating to any legal basis or rationale for withholding the information we requested in our letter dated January 9, 2018; and
2. Documents sufficient to identify the name(s) and title(s) of the agency or administration official(s), with whom you consulted or who you relied on to make the decision not to cooperate with our request.

Please contact Kevin Ortiz of the Chairman Gowdy's staff at (202) 225-5074 or Courtney Allen of Chairman Johnson's staff at (202) 224-4751 with any questions about this request. Thank you for your attention to this matter.



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Trey Gowdy  
Chairman  
Committee on Oversight  
and Government Reform  
U.S. House of Representatives

Sincerely,



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Ron Johnson  
Chairman  
Committee on Homeland Security  
and Governmental Affairs  
U.S. Senate

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Member  
Committee on Oversight and Government Reform  
U.S. House of Representatives

The Honorable Claire McCaskill, Ranking Member  
Committee on Homeland Security and Governmental Affairs  
U.S. Senate

## 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.

### **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.

**COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM  
U.S. HOUSE OF REPRESENTATIVES  
115<sup>TH</sup> CONGRESS**

**NOTICE OF APPEARANCE OF COUNSEL**

**Counsel submitting:** \_\_\_\_\_

**Bar number:** \_\_\_\_\_ **State/District of admission:** \_\_\_\_\_

**Attorney for:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Telephone:** ( \_\_\_\_\_ ) \_\_\_\_\_ - \_\_\_\_\_

**Pursuant to Rule 16 of the Committee Rules, notice is hereby given of the entry of the undersigned as counsel for \_\_\_\_\_ in (select one):**

**All matters before the Committee**

**The following matters (describe the scope of representation):**

\_\_\_\_\_  
\_\_\_\_\_

**All further notice and copies of papers and other material relevant to this action should be directed to and served upon:**

**Attorney's name:** \_\_\_\_\_

**Attorney's email address:** \_\_\_\_\_

**Firm name (where applicable):** \_\_\_\_\_

**Complete Mailing Address:** \_\_\_\_\_  
\_\_\_\_\_

**I agree to notify the Committee within 1 business day of any change in representation.**

\_\_\_\_\_  
**Signature of Attorney**

\_\_\_\_\_  
**Date**