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Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

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LAWRENCE J. BRADY
STAFF DIRECTOR

March 18, 2014

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

Dear Mr. McDonough:

I am writing to request documents and information related to the reopening of the White House Office of Political Affairs (OPA). The decision to reopen OPA heightens concerns about the illegal use of taxpayer funds to support congressional campaigns during the 2014 midterm elections.

The Hatch Act requires a clear dichotomy between the constitutional and statutory duties of federal officials and any political or campaign-related activities in which they engage.¹ This Committee has previously documented its concern about OPA's mixing of official duties with political activities. During his tenure as Oversight and Government Reform Committee Chairman, Henry Waxman conducted a lengthy investigation into whether OPA misused federal personnel and resources for political purposes in violation of the Hatch Act.² The Committee's staff report, released in October 2008, documented examples of White House and Executive Branch conduct that purportedly violated various provisions of the Hatch Act.³

President Obama closed the Office of Political Affairs in 2011, just days before the U.S. Office of Special Counsel issued a report that found the basic structure of OPA violated federal law,⁴ and that the political activities of OPA staff amounted to a misuse of taxpayer funds.⁵ On January 24, 2014, the White House announced the reinstatement

¹ See 5 U.S.C. §§ 7321-632.

² Democratic Staff, H. Comm. on Oversight and 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>.

³ *Id.*

⁴ Josh Gerstein, *New Obama politics shop faces old questions*, POLITICO, Jan. 30, 2014.

⁵ See 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 <https://www.judicialwatch.org/files/documents/2011/2006MidTermElectionWHPolActivities.pdf> [hereinafter OSC Report].

of OPA,⁶ for the purpose of “defending Democratic control of the Senate and taking back the House from Republicans.”⁷ Regrettably, the White House failed to consult with OSC regarding the reopening,⁸ despite the agency’s 2011 report calling into question the legality of OPA’s use of taxpayer money to support political campaigns.⁹

News reports describe the new OPA as “a one-stop shop for all things midterms.”¹⁰ White House officials reportedly stated that “it makes more sense to have a political office during a congressional year to focus attention on candidate needs, including fund-raising.”¹¹ Reportedly, the office – which the White House has described as an “early warning system,” – is “back and in full swing,” providing “real-time, constant communication between the White House and the myriad political groups working to elect Democrats this year.”¹²

During the 2008 presidential election, then-Senator Obama often criticized the political focus of the George W. Bush White House,¹³ stating that “the days of using the White House as another arm of the Republican National Committee are over.”¹⁴ Despite the campaign rhetoric, and bipartisan calls for President-elect Obama to close OPA,¹⁵ the White House Transition Team announced on November 21, 2008, that the office would remain open.¹⁶ Indeed, OPA was fully operational during the first two years of the Obama Administration.

In January 2011, after Republicans captured majority control of the U.S. House of Representatives in the 2010 midterm elections, the White House announced that OPA would close.¹⁷ Days later, OSC released its report calling into question the existence of

⁶ 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>.

⁷ 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?_r=0.

⁸ 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).

⁹ See OSC Report, *supra* note 5.

¹⁰ 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>.

¹¹ Shear, *supra* note 7.

¹² Josh Lederman, *New Politics Shop Aims To Keep Obama, Dems In Tune*, ASSOC. PRESS, Feb. 21, 2014, available at http://hosted.ap.org/dynamic/stories/U/US_OBAMA_POLITICAL_OFFICE?SITE=FLPET&SECTION=HOME&TEMPLATE=DEFAULT.

¹³ Shear, *supra* note 7.

¹⁴ See Gerstein, *supra* note 4.

¹⁵ Carrie Budoff Brown, *Obama Faces Test on WH Political Office*, POLITICO, Nov. 13, 2008, available at <http://www.politico.com/news/stories/1108/15574.html>.

¹⁶ Carol E. Lee, *White House Political Office Will Remain*, POLITICO, Nov. 21, 2008, available at <http://www.politico.com/news/stories/1108/15880.html>.

¹⁷ Jeff Zeleny, *Obama Will Move Political Operations to Chicago*, N.Y. TIMES, Jan. 20, 2011, available at <http://www.nytimes.com/2011/01/21/us/politics/21obama.html>; see also Josh Gerstein, *Ex-Bush Aide*

OPA.¹⁸ The report concluded that OPA facilitated a “systemic misuse of federal resources, and that this misuse was not unique to the [George W. Bush] administration.”¹⁹

The White House apparently relocated OPA operations to the Democratic National Committee.²⁰ In fact, the DNC and OPA were so closely aligned that the White House political director took over the “day-to-day duties of running the Democratic National Committee.”²¹ President Obama reportedly eliminated OPA to prevent duplication with the DNC and Obama reelection campaign.²²

The rebranded version of OPA appears to be undertaking precisely the same political activities that have raised questions in the past. While the White House has renamed the new OPA the “Office of Political Strategy and Outreach,” OSC previously found that simply renaming OPA is not a “viable solution under the law.”²³ Apparently, OPA will focus on the needs of Democratic candidates for Congress, including fundraising.²⁴ OPA will even sign-off on “direct mail and email blasts.”²⁵ Further, according to White House officials, the new political director will be permitted to engage in “overtly partisan activity” on White House grounds.²⁶

The White House is also apparently coordinating with Senate leaders to align the legislative calendar with the Administration’s efforts to help Senators facing difficult reelections.²⁷ Indeed, the *Washington Post* has recently reported that the new head of OPA takes part in biweekly strategy meetings with the Democratic Senatorial Campaign Committee’s executive director and Senate Majority Leader Harry Reid’s chief of staff.²⁸ In OSC’s 2011 report, the agency wrote “strategically supplying targeted candidates with administration support to secure electoral gains” is “the type of electioneering proscribed by the Hatch Act.”²⁹ Unfortunately, it appears the White House has determined it is appropriate to use taxpayer money in an effort to achieve electoral success.

Hails Obama Chicago Move as ‘Courageous,’ POLITICO, Jan. 21, 2011, available at http://www.politico.com/blogs/joshgerstein/0111/ExBush_aide_hails_Obama_Chicago_move_as_courageous.html.

¹⁸ OSC Report, *supra* note 5.

¹⁹ *Id.*

²⁰ Brown, *supra* note 12.

²¹ *Id.*

²² *Id.*

²³ OSC Report, *supra* note 5.

²⁴ Shear, *supra* note 7.

²⁵ Dove, *supra* note 8.

²⁶ See Gerstein, *supra* note 4.

²⁷ 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?hpid=z1.

²⁸ *Id.*

²⁹ OSC Report, *supra* note 5.

Mr. Denis McDonough
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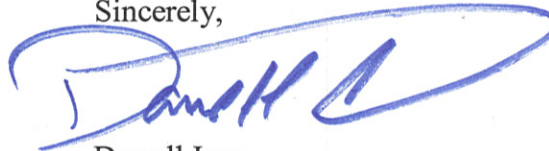
So the Committee can effectively consider whether taxpayer money is being used improperly to advance the interests of Democratic Congressional candidates and the Democratic Party, please produce all documents and communications, including e-mails, related or referring to the Office of Political Strategy and Outreach or the reopening of the Office of Political Affairs, as soon as possible, but by no later than noon on April 1, 2014. In addition, please make arrangements by March 25, 2014, to brief Committee staff on this matter.

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.

Please deliver your responses to the Majority Staff 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 Lamar Echols of the 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", enclosed within a large, loopy blue oval.

Darrell Issa
Chairman

Enclosure

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

The Honorable Carolyn Lerner, Special Counsel
U.S. Office of Special Counsel

ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

Maple by 1200 225 5074
Shaw by 1200 225 5001

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.