

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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<http://oversight.house.gov>

March 30, 2015

The Honorable Ernest Moniz
Secretary
U.S. Department of Energy
1000 Independence Avenue SW
Washington, D.C. 20585

Dear Mr. Secretary:

On March 5, 2015, Centrus Energy announced that former Department of Energy Deputy Secretary Daniel Poneman was selected as the company's President and Chief Executive Officer.¹ Mr. Poneman served at DOE as Deputy Secretary from May 2009 to October 2014.² During that time, he was substantially involved in business arrangements between DOE and Centrus Energy. Mr. Poneman's work relating to Centrus Energy and its predecessor in interest, the United States Enrichment Corporation, raises questions about whether he complied with ethics guidelines and federal conflict of interest laws that cover government employees who are seeking private employment.

It is our understanding that, during his tenure at DOE, Mr. Poneman was involved in a number of decisions related to the United States Enrichment Corporation (USEC). A former government corporation created for the purpose of privatizing uranium enrichment, USEC was privatized in the 1990s.³ USEC struggled financially before filing for Chapter 11 bankruptcy protection on March 5, 2013.⁴ On September 30, 2014, USEC emerged from Chapter 11 bankruptcy proceedings as Centrus Energy.

During the course of Mr. Poneman's tenure at the Department of Energy, USEC received financial assistance from the Department. In July 2008, USEC applied for a DOE loan guarantee to fund construction of the American Centrifuge Plant in Piketon, Ohio.⁵ On July 27, 2009, DOE asked USEC to withdraw its application because the plant did not meet a program requirement related to readiness for commercial production. The Department subsequently granted \$45 million to USEC in March 2010 so the company could continue development of its centrifuge technology.⁶ Mr. Poneman chaired the DOE credit review board and was involved in assessing

¹ Press Release, "Daniel Poneman Selected as Centrus President and CEO" (Mar. 5, 2015), available at <http://www.centrusenergy.com/news/daniel-poneman-selected-centrus-president-and-ceo> (last visited Mar. 19, 2015).

² Steven Overly, *Former Department of Energy official named CEO of Centrus Energy*, WASH. POST, Mar. 6, 2015.

³ Steven Mufson, *United States Enrichment Corp., bailed out once, seeks more federal money for new project*, WASH. POST, May 16, 2012.

⁴ *Id.* See also, Securities and Exchange Comm'n Form 8-K (Feb. 28, 2014).

⁵ Press Release, "USEC Inc. Submits Application for DOE Loan Guarantee" (July 25, 2008), available at <http://www.centrusenergy.com/news/usec-inc-submits-application-doe-loan-guarantee> (last visited Mar. 19, 2015).

⁶ Steven Mufson, *USEC Is Denied Loan Guarantees; CEO Accuses Obama Of Reneging*, WASH. POST, Jul. 29, 2009, Available at: <http://www.washingtonpost.com/wp-dyn/content/article/2009/07/28/AR2009072802617.html>.

most of the loan applications that DOE considered during this time.⁷ In fact, according to press reports, “Poneman was the chief operating officer of DOE, with a portfolio that included almost everything that happens at the agency.”⁸

Documents show that Mr. Poneman also advocated for a loan guarantee for USEC in 2011. Mr. Poneman, who served on the National Security Council Deputies Committee at the time, advised in favor of providing government funds to USEC despite “its financial challenges.” A slide summarizing the USEC American Centrifuge Project loan guarantee, prepared in part by Mr. Poneman for President Obama, stated:

Pursuant to [National Security Council Deputies Committee] guidance, agencies are collaborating on an expedited review of options for domestic industrial enrichment including:

- How to provide a loan guarantee to ACP given its financial challenges;
- Whether there are options other than a loan guarantee to support ACP; or
- Other options to develop industrial-scale enrichment using domestic technology.⁹

The Department eventually agreed to enter into a \$350 million cooperative agreement for a research development and demonstration (RD&D) program on June 12, 2012. DOE agreed to provide 80 percent, or \$280 million, to “support building, installing, operating, and testing commercial plant support systems.”¹⁰

The Department took a number of other actions that benefited USEC while Mr. Poneman was there. On May 15, 2012, DOE announced that it would provide hundreds of millions of dollars’ worth of uranium to several entities to keep USEC’s Paducah, Kentucky facility open for another year.¹¹ In 2012-13, there were several additional transfers of uranium by DOE to USEC.¹²

Given Mr. Poneman’s involvement in the numerous dealings between DOE and USEC since 2009, we are concerned that he may have violated post-employment laws for federal personnel, including restrictions that require senior government officials to report when they are seeking private employment,¹³ and to recuse themselves from matters with a direct effect on the financial interests of that potential private employer.¹⁴

⁷ Darius Dixon, *Ex-energy official’s \$1.7 million gig draws fire*, POLITICO, Mar. 16, 2015.

⁸ *Id.*

⁹ U.S. Dep’t of Energy, *An Overview of the DOE Loan Programs* (June 27, 2011).

¹⁰ Press Release, “USEC and DOE Sign \$350 Million Cooperative Agreement for American Centrifuge Research, Development and Demonstration Program” (June 13, 2012), available at <http://www.centrusenergy.com/news/usec-and-doe-sign-350-million-cooperative-agreement-american-centrifuge-research-development-an> (last visited Mar. 26, 2015).

¹¹ Gov’t Accountability Office, *Enhanced Transparency Could Clarify Costs, Market Impact, Risk, and Legal Authority to Conduct Future Uranium Transactions*, GAO-14-291 (May 9, 2014).

¹² *Id.*

¹³ P.L. 112-105, 126 Stat. 291 (Apr. 4, 2012).

¹⁴ 18 U.S.C. § 208.

We are seeking documents and information to help us better understand the relationship between Centrus Energy and Mr. Poneman during his tenure at DOE. To assist the Committee's investigation, please produce the following documents:

1. All documents and communications between Daniel Poneman and any employee of USEC or Centrus Energy from May 2009 to October 2014.
2. All documents and communications between Daniel Poneman and any employee of USEC or Centrus Energy referring or relating to employment opportunities from May 2009 to October 2014.
3. All documents and communications between or among employees of DOE, referring or relating to any restrictions or recusals from DOE projects due to employment opportunities for Daniel Poneman at USEC or Centrus Energy from May 2009 to October 2014.

Please provide the requested information as soon as possible, but no later than April 10, 2015. When producing documents to the Committee, please deliver production sets 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, if possible, to receive all documents in electronic format.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X. An attachment to this letter provides additional information about responding to the Committee's request.

Please contact Bill McGrath or Joseph Brazauskas of Chairman Chaffetz' staff at (202) 225-5074 with any questions about this request. Thank you for your prompt attention to this important matter.

Sincerely,



Jason Chaffetz
Chairman



Cynthia Lummis
Chairman
Subcommittee on the Interior

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Member

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.