

**Congress of the United States**  
**House of Representatives**

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074

MINORITY (202) 225-5051

<http://oversight.house.gov>

June 9, 2015

The Honorable Kathryn D. Sullivan, Ph.D.  
Administrator  
National Oceanic and Atmospheric Administration  
1401 Constitution Ave, NW  
Room 5128  
Washington, D.C. 20230

Dear Dr. Sullivan:

On June 2, 2015, the Department of Commerce Office of Inspector General (OIG) released a summary of an investigation into contracting misconduct that found a Senior Official at the National Weather Service (NWS) procured consulting services from a firm that he planned to join after he retired from NWS, among other things. According to the summary, the Senior Official's actions "implicated numerous federal laws and regulations, including the criminal conflict of interest statute found in 18 U.S.C. § 208."<sup>1</sup>

The OIG's investigation found that the Senior Official, while still an NWS employee, took several actions to procure his own post-retirement services. The Inspector General found that the Senior Official drafted and edited the statement of work for his post-retirement consulting position with NWS; advised NWS officials in setting the labor category and rates that would be used to pay for his consulting services; and, signed the task management plan creating the consulting position on behalf of the contractor that would employ the Senior Official after retirement.<sup>2</sup>

In addition, the Inspector General found the Senior Official instructed a direct subordinate to use the National Oceanic and Atmospheric Administration (NOAA) housing contract for his post-retirement housing expenses.<sup>3</sup> Although NOAA housing contracts are intended for senior executives—not for consultants—the Senior Official, while still a federal employee, arranged for NOAA to pay approximately \$50,000 worth of post-retirement housing.<sup>4</sup>

The investigation also found that the Senior Official, while working as a consultant, contacted NWS officials to obtain a contract position for one of his immediate family members.<sup>5</sup>

The Inspector General's investigation was not limited to misconduct by the Senior Official. The OIG summary raised concerns about the actions of other NWS officials.<sup>6</sup> In particular, the report

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<sup>1</sup> U.S. Dep't of Commerce Office of Inspector Gen., Abstract from Investigative Report No. 12-0447 (June 2, 2015), *available at* [http://www.oig.doc.gov/OIGPublications/OIG-12-0447\\_Abtract.pdf](http://www.oig.doc.gov/OIGPublications/OIG-12-0447_Abtract.pdf).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

noted the Senior Official acted at the direction of his supervisor, received his supervisor's approval, and the consulting arrangement was approved by NOAA officials.<sup>7</sup> As a result of the OIG investigation and initial briefings regarding the evidence with NOAA senior leadership, the agency took immediate action to terminate the Senior Official's consulting contract; however, at that time the federal government had already incurred consulting costs in the amount of \$471,875.34.<sup>8</sup>

The Senior Official's conduct, as well as the conduct of other NWS officials, raised questions about the strength of the agency's contracting procedures and whether there are adequate controls in place to ensure attempts at self-dealing are not widespread. In light of the Inspector General's report, we are requesting additional information that will help us understand NWS's procedures for obtaining consulting services.

To assist the Committee, please provide the following documents and information as soon as possible, but no later than 5:00 p.m. on June 26, 2015:

1. All agency policies, guidance, or memoranda referring or relating to the drafting and the approval of statements of work for former Commerce Department employees who provide post-retirement consulting services to NOAA;
2. All agency policies, guidance, or memoranda referring or relating to the procedures for setting and approving labor category and rates that will be used to pay former Commerce Department employees who provide post-retirement consulting services to NOAA;
3. All agency policies, guidance, or memoranda referring or relating to the procedures for developing and approving task management plans for former Commerce Department employees who provide post-retirement consulting services to NOAA;
4. All agency policies, guidance, or memoranda referring or relating to the use and approval of NOAA housing contracts for former Commerce Department employees who provide post-retirement consulting services to NOAA;
5. The amount NOAA has spent on housing contracts for former Commerce Department employees who provide post-retirement consulting services to NOAA for the last three fiscal years;
6. The annual salary of the Senior Official prior to his retirement from NWS and the annual salary in his post-retirement consulting position;
7. A breakdown of the \$471,875.34 consulting cost paid by NOAA;
8. All documents referring or relating to the statement of work, the labor category and rates, the task management plan, and the NOAA housing contract for the Senior Official;
9. Any documents and communications between the Senior Official and any NOAA employee referring or relating to locating a position for the Senior Official's family member;

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<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

Dr. Kathryn D. Sullivan

June 9, 2015

Page 3

10. The number of former Commerce Department employees who currently provide consulting services to NOAA.
11. All documents from 2012 to present referring or relating to the statements of work, labor and category rates, task management plans, and NOAA housing contracts for former federal employees in post-retirement consulting positions;
12. Whether NOAA requires ethics training and federal contracting training for its employees and when such training was provided since January 1, 2012; and,
13. Any new policies or procedures implemented by NOAA regarding the contracting program since January 1, 2015.

In addition, please contact the Committee as soon as possible to arrange a briefing on this matter by June 19, 2015.

The Committee on Oversight and Government Reform is the principal investigative committee in the U.S. House of Representatives. Pursuant to House Rule X, the Committee has authority to investigate "any matter" at "any time."

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. An attachment to this letter provides additional information about responding to the Committee's request.

If you have any questions about this request, please contact Jennifer Hemingway of the Committee staff at (202) 225-5074. Thank you for your attention to this matter.

Sincerely,



Jason Chaffetz  
Chairman



Mark Meadows  
Chairman  
Subcommittee on Government  
Operations

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Member  
The Honorable Gerald E. Connolly, Ranking Member  
Subcommittee on Government Operations

### 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.