

RON JOHNSON, WISCONSIN, CHAIRMAN

ROB PORTMAN, OHIO
RAND PAUL, KENTUCKY
JAMES LANKFORD, OKLAHOMA
MITT ROMNEY, UTAH
RICK SCOTT, FLORIDA
MICHAEL B. ENZI, WYOMING
JOSH HAWLEY, MISSOURI

GARY C. PETERS, MICHIGAN
THOMAS R. CARPER, DELAWARE
MAGGIE HASSAN, NEW HAMPSHIRE
KAMALA D. HARRIS, CALIFORNIA
KYRSTEN SINEMA, ARIZONA
JACKY ROSEN, NEVADA

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

GABRIELLE D'ADAMO SINGER, STAFF DIRECTOR
DAVID M. WEINBERG, MINORITY STAFF DIRECTOR

December 21, 2020

The Honorable Christopher Miller
Acting Secretary
U.S. Department of Defense
1000 Defense Pentagon
Washington, DC 20301

Dear Acting Secretary Miller,

The United States Senate Committee on Homeland Security and Governmental Affairs is conducting oversight of the federal government's response to the novel coronavirus (COVID-19) pandemic. This letter follows my November 18, 2020 notification to federal departments and agencies to preserve all documents and communications in accordance with the law, which includes documents and communications regarding the government's COVID-19 response.

The U.S. is in the midst of one of the deadliest national and public health security threats in a century and the federal government's response has had, and will continue to have, a decisive impact on efforts to save lives and overcome the pandemic. On November 4, 2020, for the first time, more than 100,000 Americans tested positive for COVID-19 in a single day. This number doubled less than one month later, when on December 2, 2020, over 200,000 Americans tested positive for COVID-19. Over a quarter of a million Americans (more than 300,000 by this letter's date) have died from COVID-19 in the U.S. in the ten months since the first cases were detected.¹ Although the U.S. accounts for only four percent of the world's population, it represents nearly twenty percent of global COVID-19 cases and deaths since the pandemic began.²

These deaths are tragic and I do not accept that the current state of affairs was inevitable. Congressional oversight of the executive branch is now necessary to understand and assess the U.S.'s response to the COVID-19 pandemic and any needed reforms to combat this and future pandemics. I am

¹ *How the Coronavirus Death Toll Compares to Other Deadly Events From American History*, Time (Sept. 22, 2020) (<https://time.com/5815367/coronavirus-deaths-comparison/>); *One-Day US Deaths Top 3,000, More than D-Day or 9-11*, Associated Press (Dec. 10, 2020) (<https://www.usnews.com/news/health-news/articles/2020-12-10/one-day-us-deaths-top-3-000-more-than-d-day-or-9-11>).

² U.S. Census Bureau, *Stats for Stories: World Population Day: July 11, 2020* (July 11, 2020) (<https://www.census.gov/newsroom/stories/world-population-day.html>); John Hopkins University Coronavirus Resource Center, *COVID-19 Dashboard by the Center for Systems Science and Engineering* (accessed Nov. 18, 2020) (<https://coronavirus.jhu.edu/map.html>). The U.S. COVID-19 mortality rate is more than twice that of Canada, nearly triple that of Russia, and almost fifty times that of Japan. See John Hopkins University Coronavirus Resource Center, *Mortality Analyses* (accessed Nov. 18, 2020) (<https://coronavirus.jhu.edu/data/mortality>).

particularly concerned about recent analysis that estimates at least 130,000 U.S. deaths “could have been avoided with earlier policy interventions and more robust federal coordination and leadership.”³

I will use every authority under this Committee to seek answers regarding how and why the Administration made key decisions in preparation for and in response to the COVID-19 pandemic. This includes decisions that have resulted in a lack of critical personal protective equipment (PPE) for emergency and first responders, insufficient testing, overwhelmed hospitals, and, reportedly, a failure to secure an extra 100 million doses of a critical and promising COVID-19 vaccine for distribution in the U.S. before it was offered to other countries.⁴

As early as February 2020, President Trump was informed of the severity and lethality of COVID-19.⁵ However, as COVID-19 began spreading in the U.S., large gatherings such as Mardi Gras continued without any federal warning of the pandemic’s increasing threat.⁶ The Administration also made the decision to leave states largely with the burden of procuring sufficient supplies of PPE and testing materials as COVID-19 cases surged throughout the U.S.⁷

I also intend to find out why the Administration continually shifted key roles and responsibilities for the pandemic response and what effect these changes had on the government’s ability to effectively contain the pandemic. In January 2020, the White House established a Coronavirus Task Force with Health and Human Services (HHS) Secretary Azar as the lead.⁸ One month later, on February 26, the President designated Vice President Mike Pence to serve as the Head of the Task Force.⁹ Similarly, when Secretary Azar declared a public health emergency on January 31, 2020, HHS headed the federal

³ Columbia University, National Center for Disaster Preparedness, *130,000 – 210,000 Avoidable COVID-19 Deaths and Counting – In the U.S.* (Oct. 21, 2020) (<https://ncdp.columbia.edu/custom-content/uploads/2020/10/Avoidable-COVID-19-Deaths-US-NCDP.pdf>).

⁴ *U.S. Government May Find It Hard To Get More Doses Of Pfizer's COVID-19 Vaccine*, NPR (Dec. 10, 2020) (<https://www.npr.org/sections/health-shots/2020/12/10/944857395/us-government-may-find-it-hard-to-get-more-doses-of-pfizers-covid-19-vaccine>).

⁵ *Trump told Bob Woodward he knew in February that COVID-19 was ‘deadly stuff’ but wanted to ‘play it down,’* NBC News (Sept. 9, 2020) (<https://www.nbcnews.com/politics/donald-trump/trump-told-bob-woodward-he-knew-february-covid-19-was-n1239658>).

⁶ *‘We were not given a warning’: New Orleans mayor says federal inaction informed Mardi Gras decision ahead of covid-19 outbreak*, Washington Post (Mar. 26, 2020) (https://www.washingtonpost.com/national/coronavirus-new-orleans-mardi-gras/2020/03/26/8c8e23c8-6fbb-11ea-b148-e4ce3fbd85b5_story.html).

⁷ *White House issues coronavirus testing guidance that leaves states in charge*, Washington Post (Apr. 27, 2020) (https://www.washingtonpost.com/politics/white-house-issues-coronavirus-testing-guidance-that-leaves-states-in-charge/2020/04/27/c465cc9c-88a2-11ea-8ac1-bfb250876b7a_story.html). Throughout the past nine months, the U.S. has continued to experience PPE shortages, especially in key health care and law enforcement sectors. *See Face Masks Are Again in Short Supply as Covid-19 Cases Surge*, Wall Street Journal (Nov. 4, 2020) (<https://www.wsj.com/articles/face-masks-are-again-in-short-supply-as-covid-19-cases-surge-11604499588>).

⁸ White House, *Statement from the Press Secretary Regarding the President’s Coronavirus Task Force* (Jan. 29, 2020) (<https://www.whitehouse.gov/briefings-statements/statement-press-secretary-regarding-presidents-coronavirus-task-force/>).

⁹ White House, *Remarks by President Trump, Vice President Pence, and Members of the Coronavirus Task Force in Press Conference* (Feb. 26, 2020) (<https://www.whitehouse.gov/briefings-statements/remarks-president-trump-vice-president-pence-members-coronavirus-task-force-press-conference/>).

government's response.¹⁰ Six weeks later, the Federal Emergency Management Agency (FEMA) was designated as the lead role for coordinating the response.¹¹ And months after that, FEMA delegated key procurement and supply responsibilities to the Department of Defense (DOD).¹²

This Administration must also explain the basis for the guidance it has provided to the public throughout the pandemic and whether political interference at key scientific agencies tainted that guidance. Despite the well-documented community transmission of the virus and the increasing rise in U.S. cases in March 2020, the Centers for Disease Control and Prevention (CDC) initially made the decision to not recommend wearing masks in public. On March 16, 2020, the White House announced its "Coronavirus Guidelines for America – 15 Days to Slow the Spread" campaign which did not include guidance to wear masks.¹³ In April 2020, the former director of the Biomedical Advanced Research and Development Authority leading vaccine research was fired after allegedly resisting pressure from HHS leadership to approve potentially harmful drugs to treat COVID-19.¹⁴ In July 2020, in the middle of the pandemic, HHS changed its data collection practices when it awarded a contract to TeleTracking Technologies, Inc. to collect hospital data, a task embedded within the CDC.¹⁵

This Committee has a responsibility as the chief oversight committee of the U.S. Senate with broad jurisdiction over all government operations to conduct a comprehensive review of the federal government's COVID-19 pandemic response to date and to recommend any reforms that may be necessary. To that end, please provide the following documents and communications as soon as possible, but no later than January 5, 2021. Please refer to the attached Schedule A for information on how to respond to this request and for the types of documents and communications to be provided. Unless otherwise indicated, all documents and communications responsive to the below requests should be provided from January 2019 to present.

1. All documents and communications regarding the shifts in leadership and authority between the White House Coronavirus Task Force, HHS, FEMA, and the Defense Logistics Agency, how the roles of each agency evolved in relation to the White House Coronavirus Task Force and overall federal COVID-19 response, and coordination between the agencies, including but not limited to interagency agreements and memoranda of understanding.
2. All organizational charts at DOD relating to the COVID-19 response.
3. A list of all senior officials at DOD who resigned or were terminated from their positions.

¹⁰ U.S. Department of Health and Human Services, *Secretary Azar Declares Public Health Emergency for United States for 2019 Novel Coronavirus* (Jan. 31, 2020) (<https://www.hhs.gov/about/news/2020/01/31/secretary-azar-declares-public-health-emergency-us-2019-novel-coronavirus.html>).

¹¹ *FEMA Takes Over Coordinating Role in Federal Coronavirus Response*, Bloomberg Law (Mar. 19, 2020) (<https://news.bloomberglaw.com/daily-labor-report/fema-takes-over-coordinating-role-in-federal-coronavirus-response>); U.S. Government Accountability Office, *COVID-19: Opportunities to Improve Federal Response and Recovery Efforts*, (GAO-20-625) (June 2020).

¹² Department of Defense, *Defense Logistics Agency Pivots to Support COVID-19 Response* (May 1, 2020) (<https://www.defense.gov/Explore/News/Article/Article/2173298/defense-logistics-agency-pivots-to-support-covid-19-response/>).

¹³ White House, *15 Days to Slow the Spread* (Mar. 16, 2020) (<https://www.whitehouse.gov/articles/15-days-slow-spread/>).

¹⁴ *Ousted vaccine official alleges he was demoted for prioritizing 'science and safety,'* Washington Post (May 5, 2020) (<https://www.washingtonpost.com/health/2020/05/05/rick-bright-hydroxychloroquine-whistleblower-complaint/>).

¹⁵ *Health Experts Warn About Perils of New Virus Data Collection System*, New York Times (Aug. 12, 2020) (<https://www.nytimes.com/2020/08/12/us/politics/health-experts-warning-coronavirus-data.html>).

The Honorable Christopher Miller

December 21, 2020

Page 4

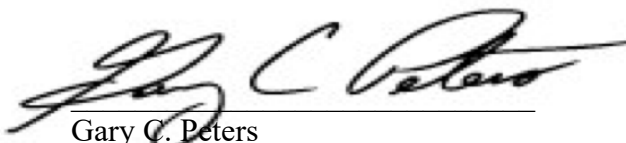
4. All documents and communications regarding the organizational structure of Operation Warp Speed, including the names of individuals involved and any independent contractors, and a delineation of responsibilities between Operation Warp Speed, HHS, DOD, and any other relevant agency.
5. All Defense Intelligence Agency or National Center for Medical Intelligence reports related to the emergence of COVID-19 in early 2020.
6. All establishment documents relating to Defense Logistic Agency's COVID-19 Task Force, including a list of specific offices, personnel, and chain of command, including the office(s) and individual(s) charged with program operation and oversight.
7. All establishment documents of the Joint Acquisition Task Force (JATF), including a list of specific offices, personnel, and chain of command, including the office(s) and individual(s) charged with program operation and oversight.
8. All contracts and agreements awarded by DOD-JATF/DLA for PPE and vaccine development/manufacture/distribution.
9. A list of the processes used for acquiring and distributing PPE and JATF's respective roles and responsibilities.
10. All senior official communications with the Supply Chain Stabilization Task Force regarding PPE demands and supply acquisition/distribution.
11. Northern Command's 2013 Playbook titled, "Global Campaign Plan for Pandemic Influenza and Infectious Disease," and all subsequent updated drafts.
12. All documents and communications between Pentagon senior officials and the Supply Chain Stabilization Task Force regarding PPE demands and supply acquisition/distribution.

Additionally, upon request, please make all Defense Department officials with relevant information available for interviews to provide information and testimony regarding the issues identified herein.

The Committee on Homeland Security and Governmental Affairs is authorized by Rule XXV of the Standing Rules of the Senate to investigate "the efficiency, economy, and effectiveness of all agencies and departments of the Government." Additionally, Senate Resolution 70 (116th Congress) authorizes the Committee to investigate "the efficiency and economy of operations of all branches of the Government."

Thank you for your prompt attention and cooperation in this matter.

Sincerely,



Gary C. Peters
Ranking Member

Instructions for Responding to a Committee Request
Committee on Homeland Security and Governmental Affairs
United States Senate
116th Congress

A. Responding to a Request for Documents

1. In complying with the Committee's request, 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. This request extends to any personal devices utilized for official business. 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 person denoted in the request has been or is also known by any other name or alias than herein denoted, the request should be read also to include the 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 form should 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 Files (".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 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.

Instructions for Responding to a Committee Request

- e. Alternatively, if the production cannot be made in .tif format, all documents derived from word processing programs, email applications, instant message logs, spreadsheets, and wherever else practicable should be produced in text searchable Portable Document Format (“.pdf”) format. Spreadsheets should also be provided in their native form. Audio and video files should be produced in their native format, although picture files associated with email or word processing programs should be produced in .pdf format along with the document it is contained in or to which it is attached. In such circumstances, consult with Committee staff prior to production of the requested documents.
 - f. 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), consult with the Committee staff to determine the appropriate format in which to produce the information.
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 the request should be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When producing documents, identify the paragraph in the Committee’s schedule to which the documents respond.
9. Do not refuse to produce documents on the basis that any other person or entity also possesses non-identical or identical copies of the same documents.
10. 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, should be produced immediately upon subsequent location or discovery.
11. All documents should be Bates-stamped sequentially and produced sequentially. Each page should bear a unique Bates number.
12. Two sets of documents should be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets should be delivered to the Majority Staff in Room 340 of the Dirksen Senate Office Building and the Minority Staff in Room 442 of the Hart Senate Office Building.
13. If compliance with the request cannot be made in full by the date specified in the request, compliance should be made to the extent possible by that date. Notify Committee staff as

Instructions for Responding to a Committee Request

soon as possible if full compliance cannot be made by the date specified in the request, and provide an explanation for why full compliance is not possible by that date.

14. 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.
15. In the event that a portion of a document is redacted on the basis of privilege, provide a privilege log containing the following information concerning any such redaction: (a) the privilege asserted; (b) the location of the redaction in the document; (c) the general subject matter of the redacted material; (d) the date, author, and addressee of the document, if not readily apparent; and (e) the relationship of the author and addressee to each other.
16. 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.
17. If a date, name, title, or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date, name, title, or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents which would be responsive as if the date, name, title, or other descriptive detail was correct.
18. In the event a complete response requires the production of classified information, provide as much information in unclassified form as possible in your response and send all classified information under separate cover via the Office of Senate Security.
19. Unless otherwise specified, the period covered by this request is from January 1, 2009 to the present.
20. 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.

B. Responding to Interrogatories or a Request for Information

1. In complying with the Committee's request, answer truthfully and completely. Persons that knowingly provide false testimony could be subject to criminal prosecution for perjury (when under oath) or for making false statements. Persons that knowingly withhold subpoenaed information could be subject to proceedings for contempt of Congress. If you are unable to answer an interrogatory or information request fully, provide as much information as possible and explain why your answer is incomplete.

Instructions for Responding to a Committee Request

2. In the event that any entity, organization, or person denoted in the request has been or is also known by any other name or alias than herein denoted, the request should also be read to include the alternative identification.
3. Your response to the Committee's interrogatories or information requests should be made in writing and should be signed by you, your counsel, or a duly authorized designee.
4. When responding to interrogatories or information requests, respond to each paragraph in the Committee's schedule separately. Clearly identify the paragraph in the Committee's schedule to which the information responds.
5. Where knowledge, information, or facts are requested, the request encompasses knowledge, information or facts in your possession, custody, or control, or in the possession, custody, or control of your staff, agents, employees, representatives, and any other person who has possession, custody, or control of your proprietary knowledge, information, or facts.
6. Do not refuse to provide knowledge, information, or facts on the basis that any other person or entity also possesses the same knowledge, information, or facts.
7. The request is continuing in nature and applies to any newly discovered knowledge, information, or facts. Any knowledge, information, or facts not provided because it was not known by the return date, should be provided immediately upon subsequent discovery.
8. Two sets of responses should be delivered, one set to the Majority Staff and one set to the Minority Staff. When responses are provided to the Committee, copies should be delivered to the Majority Staff in Room 340 of the Dirksen Senate Office Building and the Minority Staff in Room 442 of the Hart Senate Office Building.
9. If compliance with the request cannot be made in full by the date specified in the request, compliance should be made to the extent possible by that date. Notify Committee staff as soon as possible if full compliance cannot be made by the date specified in the request, and provide an explanation for why full compliance is not possible by that date.
10. In the event that knowledge, information, or facts are withheld on the basis of privilege, provide a privilege log containing the following information: (a) the privilege asserted; (b) the general subject matter of the knowledge, information, or facts withheld; (c) the source of the knowledge, information, or facts withheld; (d) the paragraph in the Committee's request to which the knowledge, information, or facts are responsive; and (e) each individual to whom the knowledge, information, or facts have been disclosed.
11. If a date, name, title, or other descriptive detail set forth in this request is inaccurate, but the actual date, name, title, or other descriptive detail is known to you or is otherwise apparent from the context of the request, provide the information that would be responsive as if the date, name, title, or other descriptive detail was correct.

Instructions for Responding to a Committee Request

12. In the event a complete response requires the transmission of classified information, provide as much information in unclassified form as possible in your response directly to the Committee offices and send only the classified information under separate cover via the Office of Senate Security.
13. Unless otherwise specified, the period covered by this request is from January 1, 2009 to the present.

C. Definitions

1. The term “document” in the request or the instructions 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” in the request or the instructions means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face to face, in meetings, by telephone, mail, telex, facsimile, email (desktop or mobile device), computer, text message, instant message, MMS or SMS message, WhatsApp, Signal, any other encrypted messaging service, regular mail, discussions, releases, delivery, or otherwise. This includes communications on encrypted phones and personal devices utilized for official business.
3. The terms “and” and “or” in the request or the instructions should 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

Instructions for Responding to a Committee Request

includes plural number, and vice versa. The masculine includes the feminine and neuter genders.

4. The terms “person” or “persons” in the request or the instructions mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, businesses or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.
5. The term “identify” in the request or the instructions, 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, email address, and phone number.
6. The terms “referring” or “relating” in the request or the instructions, when used separately or collectively, with respect to any given subject, mean 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” in the request or the instructions means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint venturer, loaned employee, part-time employee, permanent employee, provisional employee, or subcontractor.
8. The terms “you” and “your” in the request or the instructions refer to yourself; your firm, corporation, partnership, association, department, or other legal or government entity, including all subsidiaries, divisions, branches, or other units thereof; and all members, officers, employees, agents, contractors, and all other individuals acting or purporting to act on your behalf, including all present and former members, officers, employees, agents, contractors, and all other individuals exercising or purporting to exercise discretion, make policy, and/or decisions.

#