

Congress of the United States
House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

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December 14, 2023

Brenda Mallory
Chair
Council on Environmental Quality
730 Jackson Place NW
Washington, DC 20006

Dear Chair Mallory:

We write today regarding the document production provided to the Committee on Science, Space, and Technology (“the Committee”) by the Council on Environmental Quality (CEQ) on December 5th, 2023. This document production was in response to a March 10th, 2023, letter addressed to you from Committee Chair Frank Lucas, as well as subcommittee Chairs Jay Obernolte, Brian Babin, and Max Miller. The content of this document production raises concerns about apparent conflicts of interest that we believe you need to address expeditiously.

The production contained email communications between CEQ officials and non-profit organizations related to a proposed Federal Acquisition Regulation (FAR) Council rule entitled “Federal Acquisition Regulation: Disclosure of Greenhouse Gas Emissions and Climate-Related Financial Risk.”¹ Based on the documents produced to the Committee, it appears that a particular CEQ official was heavily involved in CEQ’s work on the proposed rule, starting shortly after their arrival and continuing through the issuance of the Notice of Proposed Rulemaking. This official was a former employee of CDP, a non-profit environmental organization that produces a climate change impact questionnaire used by public and private entities. The official was in seemingly constant contact with CDP, soliciting their advice and support beyond the traditional stakeholder engagement process and providing the organization with informal updates on their activities. These actions create the appearance that CEQ was biased towards the inclusion of CDP in the text of the proposed rule, potentially impacting CEQ’s ability to participate impartially in interagency deliberations on this FAR Council rulemaking.

This is especially concerning given that CDP stands to benefit from its inclusion in the proposed rule, should it be finalized as currently written. Under the language of the proposed rule, certain

¹ Proposed Rule by the Defense Department, the General Services Administration, and the National Aeronautics and Space Administration, “Federal Acquisition Regulation: Disclosure of Greenhouse Gas Emissions and Climate-Related Financial Risk,” November 14, 2022, accessed here: <https://www.federalregister.gov/documents/2022/11/14/2022-24569/federal-acquisition-regulation-disclosure-of-greenhouse-gas-emissions-and-climate-related-financial>

federal contractors would need to complete a questionnaire issued by CDP. This would lead to a significant increase in CDP's user base and solidify CDP's status as a leader in providing this type of service.

The document production also calls into question the representations made by CEQ to the Committee, both publicly and privately, regarding its involvement during the drafting of the FAR Council's proposed rule. Before the November 30th hearing titled "Missing the Target: CEQ's Meritless Selection of SBTi,"² Committee staff engaged CEQ staff on four separate occasions to determine the extent of CEQ's involvement in the drafting of the FAR Council's proposed rule. CEQ staff communicated unambiguously that CEQ's involvement in the drafting process ended with the December 8, 2021, publication of a policy guidance memo.³ Upon review of the document production, these statements appear to be incorrect. The aforementioned official joined CEQ months after the publication of the memo and immediately began collecting information related to the rulemaking. On November 30th, Federal Chief Sustainability Officer Andrew Mayock testified before the Committee about the FAR Council's proposed rule and perpetuated the narrative provided privately to Committee staff. However, the aforementioned official – who worked within his office – clearly engaged in activity that went far beyond what was characterized by CEQ to the Committee at the hearing and in staff-level conversations.

We want to be clear that our concerns about this proposed rulemaking have nothing to do with the conspiracy theories and baseless speculation peddled by far-right blogs and certain Members of Congress regarding Democratic dark money groups and foreign influence. Nothing in the document production provides the slightest support or evidence for the outlandish accusations leveled at the Administration. We also do not wish to make any judgments about the possible motivations of the CEQ official based upon the limited records produced to the Committee. However, we are extremely concerned that the interactions documented between the official and CDP demonstrate an inappropriate level of familiarity and poor judgment in how they conducted themselves on behalf of CEQ. The Biden Administration's climate agenda is too important to be undermined by conflicts of interest. CEQ and the other agencies implementing this vital agenda must hold all staffers to the highest ethical standards.

We request that CEQ initiate an immediate review of the official's conflict of interest to determine whether bias unduly influenced CEQ's participation in the deliberative process for the FAR Council's proposed rule. It is imperative that CEQ complete this review expeditiously and communicate its findings to the Committee. Even the appearance of inappropriate influence by outside entities risks compromising CEQ's ability to support the Biden Administration's ambitious climate agenda. We also request that CEQ take this opportunity to correct the Committee record, if you deem it necessary, concerning CEQ's involvement in the promulgation of the proposed rule.

² Hearing of the House Committee on Science, Space, and Technology Subcommittees on Investigations & Oversight and Environment, "Missing the Target: CEQ's Meritless Selection of SBTi," November 30, 2023, accessed here: https://democrats-science.house.gov/hearings/investigations-and-oversight-subcommittee-hearing_-_missing-the-target-ceqs-meritless-selection-of-sbti

³ Memorandum for the Heads of Executive Departments and Agencies, Shalanda D. Young, Brenda Mallory, and Gina McCarthy, "Catalyzing Clean Energy Industries and Jobs through Financial Sustainability," December 8, 2021, accessed here: <https://www.whitehouse.gov/wp-content/uploads/2021/12/M-22-06.pdf>

Thank you for your urgent attention to this matter.

Sincerely,



Zoe Lofgren
Ranking Member
Committee on Science, Space, and Technology



Valerie P. Foushee
Ranking Member
Subcommittee on Investigations and Oversight
Committee on Science, Space, and Technology

cc: Frank Lucas, Chairman, Committee on Science, Space, and Technology
Jay Obernolte, Chairman, Subcommittee on Investigations and Oversight