

**Congress of the United States**  
**Washington, DC 20515**

March 30, 2021

The Honorable Xavier Becerra  
Secretary  
Department of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

Dear Secretary Becerra:

The Select Subcommittee on the Coronavirus Crisis is investigating the federal government's efforts to procure and distribute personal protective equipment (PPE) and other supplies that are vital to protecting American lives during the coronavirus pandemic. The Trump Administration obstructed this inquiry for months, but documents recently obtained from other sources raise troubling new questions about the previous Administration's approach to procurement and its impact on our nation's response to the pandemic. These documents provide further evidence that the Trump Administration failed to react quickly to the coronavirus pandemic in Spring 2020 despite urgent warnings, failed to implement a national strategy to alleviate critical supply shortages that were putting American lives at risk, and pursued a haphazard and ineffective approach to procurement in which senior White House officials steered contracts to particular companies without adequate diligence or competition.

The Select Subcommittee obtained an internal White House memorandum from March 1, 2020, in which then-Assistant to the President Peter Navarro warned President Trump of the urgent need to "STAY AHEAD OF VIRUS CURVE." He stated bluntly that the country was facing "a very serious public health emergency" and explained: "Over the last month, I have presented the Task Force with action memos to combat the virus swiftly in 'Trump Time,' but movement has been slow." Mr. Navarro stated that progress on critical elements of the nation's response—from strengthening supply chains to increasing testing and treatment options—"is NOT fast enough."

Rather than heed this warning and implement a coordinated national strategy, President Trump asserted just a few weeks later: "The Federal government is not supposed to be out there buying vast amounts of items and then shipping. You know, we're not a shipping clerk."<sup>1</sup> The President rejected calls from governors to ensure that the country had sufficient PPE and other supplies to address the crisis, leading to severe shortages and forcing states and cities to compete on the open market.

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<sup>1</sup> *'We're Not a Shipping Clerk': Trump Tells Governors to Step up Efforts to Get Medical Supplies*, Politico (Mar. 19, 2020) (online at [www.politico.com/news/2020/03/19/trump-governors-coronavirus-medical-supplies-137658](http://www.politico.com/news/2020/03/19/trump-governors-coronavirus-medical-supplies-137658)).

In the absence of a coordinated national plan, various White House officials pursued an ineffective, ad hoc approach to procuring key supplies. Recently obtained documents show that White House officials pushed federal agencies to issue non-competitive contracts for certain pharmaceutical ingredients and other items—some of which would not be ready for many months or even years—even as acute shortages of surgical masks, nitrile gloves, gowns, and other items continued.<sup>2</sup> For example, documents reveal that Mr. Navarro exhorted senior officials at the Department of Health and Human Services (HHS) and other agencies to rush a \$354 million contract for pharmaceutical ingredients to a newly formed company, writing, “Please move this puppy in Trump time,” and, “My head is going to explode if this contract does not get immediately approved.” The contract was awarded without competition.

We are pleased that the Biden Administration is now implementing a coordinated national strategy to procure supplies, including using the Defense Production Act to ramp up production and taking steps to strengthen supply chains and restore American manufacturing capability.<sup>3</sup> The Biden Administration’s strategy, along with its commitment to transparency and to science, will help to bring this crisis to an end. In order to understand what went wrong over the last year, correct these errors, and prevent them from recurring, the Select Subcommittee is continuing to investigate critical failures in the previous Administration’s approach to procuring and distributing supplies.

### **The Trump Administration’s Failed Approach to Obtaining Critical Supplies**

On March 1, 2020, Mr. Navarro wrote a memorandum to President Trump entitled: “MOVE IN ‘TRUMP TIME’ TO STAY AHEAD OF VIRUS CURVE.” The memo, which followed other memos warning the President of the potential severity of the coronavirus outbreak,<sup>4</sup> stated:

Since the first news from China of a viral epidemic, I forecast a *significant* global pandemic. ... Over the last month, I have presented the Task Force with action memos to combat the virus swiftly in ‘Trump Time,’ but movement has been slow. There is NO downside risk to taking swift actions as an insurance policy

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<sup>2</sup> *HHS Clarifies US Has About 1% of Face Masks Needed for ‘Full-Blown’ Coronavirus Pandemic*, CNBC (Mar. 4, 2020) (online at <https://cnbc.com/2020/03/04/hhs-clarifies-us-has-about-1percent-of-face-masks-needed-for-full-blown-pandemic.html>); *U.S. Hospital Workers Are Making Masks, Protective Gear from Office Supplies Amid Equipment Shortage*, Time (Mar. 18, 2020) (online at [www.time.com/5805557/homemade-medical-face-mask-shortage/](http://www.time.com/5805557/homemade-medical-face-mask-shortage/)); *‘At War With No Ammo’: Doctors Say Shortage of Protective Gear Is Dire*, New York Times (Mar. 19, 2020) (online at [www.nytimes.com/2020/03/19/health/coronavirus-masks-shortage.html](http://www.nytimes.com/2020/03/19/health/coronavirus-masks-shortage.html)).

<sup>3</sup> See, e.g., Exec. Order No. 14017, 86 Fed. Reg. 11849 (Feb. 24, 2021) (online at [www.whitehouse.gov/briefing-room/presidential-actions/2021/02/24/executive-order-on-americas-supply-chains/](http://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/24/executive-order-on-americas-supply-chains/)); Exec. Order No. 14001, 86 Fed. Reg. 7219 (Jan. 21, 2021) (online at [www.whitehouse.gov/briefing-room/presidential-actions/2021/01/21/executive-order-a-sustainable-public-health-supply-chain/](http://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/21/executive-order-a-sustainable-public-health-supply-chain/)).

<sup>4</sup> *Navarro Memos Warning of Mass Coronavirus Death Circulated in January*, Axios (Apr. 7, 2020) (online at [www.axios.com/exclusive-navarro-deaths-coronavirus-memos-january-da3f08fb-dce1-4f69-89b5-ea048f8382a9.html](http://www.axios.com/exclusive-navarro-deaths-coronavirus-memos-january-da3f08fb-dce1-4f69-89b5-ea048f8382a9.html)).

against what may be a very serious public health emergency. If the COVID-19 crisis quickly recedes, the only thing we will have been guilty of is prudence.<sup>5</sup>

Mr. Navarro's memo advocated five specific steps that the Administration could take to address the looming crisis, including mobilization of supply chains, developing point-of-care diagnostics, and increasing capacity to develop treatments. The memo emphasized: "In some cases, there is already SOME movement BUT the movement is NOT fast enough."<sup>6</sup>

This memo adds to the growing body of evidence showing that the Trump Administration failed to execute an effective strategy to procure PPE, leading to severe shortages and forcing states and cities to compete on the open market for scarce supplies. For example, a memorandum released by the Committee on Oversight and Reform in July 2020 revealed that Trump Administration officials resisted offers from major manufacturers to assist in obtaining PPE and other critical supplies as early as January 2020. Oversight Committee staff conducted interviews with representatives from major medical equipment distribution companies, who reported that "folks in the industry saw that things were getting worse, and their requests for guidance was increasing week by week" and that "everyone was asking the same questions, but guidance wasn't coming."<sup>7</sup> Although the White House was aware of the potential for shortages, the Trump Administration appeared to take little action early in the pandemic to procure supplies.<sup>8</sup>

On July 14, 2020, the Select Subcommittee sent requests to four federal agencies, including HHS, for information on the projected demand for critical supplies as well as the country's ability to meet this demand and address projected shortages.<sup>9</sup> The Trump Administration failed to provide a comprehensive response to these requests. It remains unclear

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<sup>5</sup> Memorandum from Peter Navarro through NSA O'Brien to the President, *Move in 'Trump Time' to Stay Ahead of Virus Curve* (Mar. 1, 2020) (PHLOW\_SSCC\_0017388 – 97) (online at [https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/PHLOW\\_SSCC\\_0017388\\_Redacted.pdf](https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/PHLOW_SSCC_0017388_Redacted.pdf)) (emphasis in original).

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

<sup>7</sup> Memorandum from Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform, to Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis, *Information Provided by Medical Distribution Companies on Challenges with White House Supply Chain Task Force and Project Airbridge* (July 2, 2020) (online at <https://oversight.house.gov/news/press-releases/chairwoman-maloney-releases-memo-with-new-information-on-trump-administration-s>).

<sup>8</sup> *President's Intelligence Briefing Book Repeatedly Cited Virus Threat*, Washington Post (Apr. 27, 2020) (online at [www.washingtonpost.com/national-security/presidents-intelligence-briefing-book-repeatedly-cited-virus-threat/2020/04/27/ca66949a-8885-11ea-ac8a-fe9b8088e101\\_story.html](https://www.washingtonpost.com/national-security/presidents-intelligence-briefing-book-repeatedly-cited-virus-threat/2020/04/27/ca66949a-8885-11ea-ac8a-fe9b8088e101_story.html)).

<sup>9</sup> Letter from Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis, to Secretary Alex M. Azar II, Department of Health and Human Services, Secretary Mark T. Esper, Department of Defense, Secretary Robert Wilkie, Department of Veterans Affairs, and Acting Secretary Chad Wolf, Department of Homeland Security (July 14, 2020) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2020-07-14.Select%20Cmte.%20to%20Azar-HHS%20Esper-DOD%20Wolf-DHS%20Wilkie-%20VA%20re%20Administration%20PPE%20Contractor%20%281%29.pdf>).

whether the previous Administration failed to track supply and demand of critical supplies or simply refused to share this information with Congress.

### **The Role of the Trump White House in Federal Procurement**

We are concerned that the previous Administration may not have conducted sufficient diligence prior to awarding multi-million-dollar contracts, and that White House officials may have placed inappropriate pressure on federal agencies to award contracts to particular companies. New evidence uncovered by the Select Subcommittee raises questions about whether White House officials, including Mr. Navarro, exercised inappropriate influence over contract awards for PPE and medical supplies that should have been handled by career procurement staff.

These documents also raise new questions about the Trump Administration's use of unaccountable outside advisors, rather than career federal procurement and public health experts, to manage the federal government's pandemic response. Documents show that Mr. Navarro involved at least one outside advisor in negotiating multi-million-dollar agreements on behalf of the federal government. Steven Hatfill, an adjunct assistant professor at George Washington University, appears to have been involved in negotiating a \$354 million contract awarded to Phlow Corporation by HHS as well as a \$96 million contract for respirators awarded by the Federal Emergency Management Agency (FEMA).<sup>10</sup> Dr. Hatfill is an associate of Stephen Bannon who endorsed hydroxychloroquine as a coronavirus treatment after the Food and Drug Administration revoked the drug's authorization for emergency use—a position Mr. Navarro praised.<sup>11</sup>

#### *Contract with Phlow Corporation*

On May 18, 2020, the Biomedical Advanced Research and Development Agency (BARDA) awarded a four-year, \$354 million contract to Phlow to manufacture active pharmaceutical ingredients (API) and generic drugs at risk of shortage. The contract included options worth an additional \$458 million, for a total value of up to \$812 million over 10 years.

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<sup>10</sup> Email from B. Frank Gupton, Floyd D. Gottwald, Jr. Chair in Pharmaceutical Engineering and Chair of the Department of Chemical and Life Science Engineering, Virginia Commonwealth University, to Steven Hatfill, Adjunct Assistant Professor, George Washington University, et al. (Mar. 31, 2020) (PHLOW\_SSCC\_0010217) (online at [https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/PHLOW\\_SSCC\\_0010217\\_Redacted.pdf](https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/PHLOW_SSCC_0010217_Redacted.pdf)); Email from Michael McCormack, Chief Strategy Officer, AirBoss Defense Group, to Sam Ansani, Branch Chief, Incident Support and Field Operations, Department of Homeland Security, et al. (Mar. 29, 2020) (ADG\_00000661 – 76) (online at [https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/ADG\\_00000661-676\\_Redacted.pdf](https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/ADG_00000661-676_Redacted.pdf)).

<sup>11</sup> See *An Effective COVID Treatment the Media Continues to Besmirch*, RealClear Politics (Aug. 4, 2020) (online at [www.realclearpolitics.com/articles/2020/08/04/an\\_effective\\_covid\\_treatment\\_the\\_media\\_continues\\_to\\_besmirch\\_143875.html](http://www.realclearpolitics.com/articles/2020/08/04/an_effective_covid_treatment_the_media_continues_to_besmirch_143875.html)); Peter Navarro (@RealPNavarro), Twitter (Aug. 5, 2020) (online at <https://twitter.com/realpnavarro/status/1291085023886675968?lang=en>) (“Dr. Steven Hatfill’s clutch hit. Best take down of anti-Trump Hydroxy Hysteria media this side of @ScottAdams[.] Says CNN might be killing tens of thousands.”).

It was the largest contract ever awarded by BARDA, even though Phlow was a first-time government contractor that had incorporated just months earlier in January 2020.<sup>12</sup> Documents obtained by the Select Subcommittee show that BARDA awarded the contract after Mr. Navarro and other White House appointees urged agency officials to move forward, raising questions about whether appropriate diligence was performed and whether the contract is in taxpayers' best interest.

Mr. Navarro was reportedly introduced to Eric Edwards, who later became Phlow's CEO, in November 2019.<sup>13</sup> In early February 2020, Phlow began conversations with White House officials about the company's proposal to manufacture generic drugs and API.<sup>14</sup>

Phlow representatives met with BARDA officials on February 28, 2020, and proposed to develop a "strategic API reserve" for an estimated cost of \$300 million.<sup>15</sup> Phlow's CEO wrote to a member of Mr. Navarro's team before this meeting, saying that he "wanted to make sure we are aligned on messaging and goals."<sup>16</sup>

On March 26, 2020, Mr. Navarro sent an email to Mr. Edwards and Rear Admiral John Polowczyk, who led FEMA's Supply Chain Stabilization Task Force, copying Deputy Director Christopher Abbott of the White House Office of Trade and Manufacturing Policy, Lieutenant Colin Amerau of the Department of Defense Joint Staff, and HHS Assistant Secretary for Preparedness and Response Robert Kadlec. The email stated, "Phlow needs to get greenlit as soon as humanly possible. It is a critical part of our Advanced Manufacturing strategy at WH.

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<sup>12</sup> USASpending.com, *Contract Summary: Phlow Corp.* (online at [www.usaspending.gov/award/CONT\\_AWD\\_75A50120C00092\\_7505\\_-NONE\\_-NONE-](https://www.usaspending.gov/award/CONT_AWD_75A50120C00092_7505_-NONE_-NONE-)) (accessed Mar. 22, 2021); *Generic Drugmaker Gets Contract to Make Covid-19 Medicines in U.S.*, Wall Street Journal (May 19, 2020) (online at [www.wsj.com/articles/generic-drugmaker-gets-contract-to-make-covid-19-medicines-in-u-s-11589920608](https://www.wsj.com/articles/generic-drugmaker-gets-contract-to-make-covid-19-medicines-in-u-s-11589920608)).

<sup>13</sup> *Generic Drugmaker Gets Contract to Make Covid-19 Medicines in U.S.*, Wall Street Journal (May 19, 2020) (online at [www.wsj.com/articles/generic-drugmaker-gets-contract-to-make-covid-19-medicines-in-u-s-11589920608](https://www.wsj.com/articles/generic-drugmaker-gets-contract-to-make-covid-19-medicines-in-u-s-11589920608)).

<sup>14</sup> Email from Garrett Ziegler, Senior Policy Analyst, White House Office of Trade and Manufacturing Policy, to Eric Edwards, Chief Executive Officer, Phlow (Feb. 3, 2020) (PHLOW\_SSCC\_0012201) (online at [https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/PHLOW\\_SSCC\\_0012201\\_Redacted.pdf](https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/PHLOW_SSCC_0012201_Redacted.pdf)); Email from Eric Edwards, Chief Executive Officer, Phlow, to Garrett Ziegler, Senior Policy Analyst, White House Office of Trade and Manufacturing Policy (Feb. 10, 2020) (PHLOW\_SSCC\_0010273) (online at [https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/PHLOW\\_SSCC\\_0010273\\_Redacted.pdf](https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/PHLOW_SSCC_0010273_Redacted.pdf)).

<sup>15</sup> Email from Eric Edwards, Chief Executive Officer, Phlow, to Peter Navarro, Director, White House Office of Trade and Manufacturing Policy (Feb. 28, 2020) (PHLOW\_SSCC\_0017520 – 26) (online at [https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/PHLOW\\_SSCC\\_0017520\\_Redacted.pdf](https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/PHLOW_SSCC_0017520_Redacted.pdf)); Email from Eric Edwards, Chief Executive Officer, Phlow, to Garrett Ziegler, Senior Policy Analyst, White House Office of Trade and Manufacturing Policy, and Christopher Abbott, Deputy Director, White House Office of Trade and Manufacturing Policy (Feb. 28, 2020) (PHLOW\_SSCC\_0010215) (online at [https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/PHLOW\\_SSCC\\_0010215\\_Redacted.pdf](https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/PHLOW_SSCC_0010215_Redacted.pdf)).

<sup>16</sup> Email from Garrett Ziegler, Senior Policy Analyst, White House Office of Trade and Manufacturing Policy, to Eric Edwards, Chief Executive Officer, Phlow (Feb. 26, 2020) (PHLOW\_SSCC\_0010700) (online at [https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/PHLOW\\_SSCC\\_0010700\\_Redacted.pdf](https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/PHLOW_SSCC_0010700_Redacted.pdf)).

Please move this puppy in Trump time.” Rear Admiral Polowczyk, replied, “I’m on it. Yes we need that contract.”<sup>17</sup>

Emails indicate that Mr. Navarro and his team pushed BARDA officials to finalize the contract. For example, on March 20, 2020, Mr. Navarro wrote to then-BARDA Director Rick Bright and Dr. Kadlec:

My head is going to explode if this contract does not get immediately approved. This is a travesty. I need PHLOW noticed by Monday morning. This is being screwed up. Let’s move this now. We need to flip the switch and they can’t move until you do. FULL funding as we discussed.<sup>18</sup>

Two weeks later, a Phlow consultant recommended that Mr. Edwards use Mr. Navarro to accelerate the pace of the deal, writing, “Navarro’s ‘if your contracting people mess this up, you’re fired’ email to Rick and Kadlec several weeks ago was a big deal. CC’ing Navarro cranks up the pressure.”<sup>19</sup>

Officials in Mr. Navarro’s office also coordinated with executives at Phlow and the Eastman Kodak Company (Kodak), which then entered into a letter of intent in June 2020 to collaborate on the domestic manufacturing of pharmaceutical agreements.<sup>20</sup> On July 28, Kodak signed a letter of intent with the U.S. International Development Finance Corporation (DFC) for

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<sup>17</sup> Email from Peter Navarro, Director, White House Office of Trade and Manufacturing Policy, to Eric Edwards, Chief Executive Officer, Phlow, Rear Admiral John Polowczyk, Lead, Supply Chain Stabilization Task Force, Federal Emergency Management Agency, Christopher Abbott, Deputy Director, White House Office of Trade and Manufacturing Policy, Lieutenant Colin Amerau, Joint Staff J4, Department of Defense, and Robert Kadlec, Assistant Secretary for Preparedness and Response, Department of Health and Human Services (Mar. 26, 2020) (PHLOW\_SSCC\_0003719 – 20) (online at [https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/PHLOW\\_SSCC\\_0003719\\_Redacted.pdf](https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/PHLOW_SSCC_0003719_Redacted.pdf)).

<sup>18</sup> Email from Peter Navarro, Director, White House Office of Trade and Manufacturing Policy, to Eric Edwards, Chief Executive Officer, Phlow, et al. (Mar. 20, 2020) (PHLOW\_SSCC\_0011872) (online at [https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/PHLOW\\_SSCC\\_0011872\\_Redacted.pdf](https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/PHLOW_SSCC_0011872_Redacted.pdf)).

<sup>19</sup> Email from Andrew Stiles, Managing Director, BDO USA, to Eric Edwards, Chief Executive Officer, Phlow, and Alan Taggart, Phlow (Apr. 4, 2020) (PHLOW\_SSCC\_0035032 – 33) (online at [https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/PHLOW\\_SSCC\\_0035032\\_Redacted.pdf](https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/PHLOW_SSCC_0035032_Redacted.pdf)).

<sup>20</sup> Email from Christopher Abbott, Deputy Director, White House Office of Trade and Manufacturing Policy, to Eric Edwards, Chief Executive Officer, Phlow, Jim Continenza, Executive Chairman, Eastman Kodak Company, and Terry Taber, Chief Technical Officer, Eastman Kodak Company (May 22, 2020) (PHLOW\_SSCC\_0004816) (online at [https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/PHLOW\\_SSCC\\_0004816\\_Redacted.pdf](https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/PHLOW_SSCC_0004816_Redacted.pdf)); Email from Christopher Abbott, Deputy Director, White House Office of Trade and Manufacturing Policy, to Eric Edwards, Chief Executive Officer, Phlow (May 25, 2020) (PHLOW\_SSCC\_0004817) (online at [https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/PHLOW\\_SSCC\\_0004817\\_Redacted.pdf](https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/PHLOW_SSCC_0004817_Redacted.pdf)); Letter from Terry R. Taber, Chief Technology Officer, Eastman Kodak Company, to Eric Edwards, Chief Executive Officer, Phlow (June 8, 2020) (PHLOW\_SSCC\_0005026 – 30) (online at [https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/PHLOW\\_SSCC\\_0005026.pdf](https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/PHLOW_SSCC_0005026.pdf)). According to a cover letter from Kodak’s Chief Technology Officer attached to the letter of intent, the agreement with Phlow was “part of the basis for a DFC loan to fund Kodak’s proposal.” *Id.*

a \$765 million loan to manufacture multiple pharmaceutical ingredients, despite the company's complete lack of experience in this field.<sup>21</sup>

Last year, Trump Administration officials at HHS failed to produce key documents and communications necessary to determine why the Trump Administration engaged in these contract practices, the impact of these practices on the availability of critical supplies, and what changes may be needed to prevent these practices from happening again.<sup>22</sup>

*Contract with Zach Fuentes LLC*

The Select Subcommittee has also sought to obtain information about contracts that were awarded during the pandemic to companies with political ties to the Trump Administration.<sup>23</sup> On April 13, 2020, a company formed by former White House Deputy Chief of Staff Zachary Fuentes was awarded a \$3 million federal contract from the Indian Health Services (IHS) to provide respirator masks to the Navajo Nation. Mr. Fuentes created the company that won the contract, Zach Fuentes LLC, just 11 days before the contract was awarded. When the respirator masks were delivered, IHS determined that they were unsuitable for use in a medical or surgical environment and failed to comply with the terms of the contract.<sup>24</sup> Although Mr. Fuentes has denied that his prior role in the Trump Administration led to this award, the Trump Administration refused to provide the documents necessary to understand the circumstances under which the contract was awarded.

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For all these reasons, the Select Subcommittee respectfully requests that you produce by April 13, 2021, the following documents covering the period from January 1, 2020, to January 20, 2021:

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<sup>21</sup> U.S. International Development Finance Corporation, *Press Release: DFC to Sign Letter of Interest for Investment in Kodak's Expansion into Pharmaceuticals* (July 28, 2020) (online at [www.dfc.gov/media/press-releases/dfc-sign-letter-interest-investment-kodaks-expansion-pharmaceuticals](http://www.dfc.gov/media/press-releases/dfc-sign-letter-interest-investment-kodaks-expansion-pharmaceuticals)).

<sup>22</sup> Letter from Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis, to Secretary Alex M. Azar II, Department of Health and Human Services, Secretary Mark T. Esper, Department of Defense, Secretary Robert Wilkie, Department of Veterans Affairs, and Acting Secretary Chad Wolf, Department of Homeland Security (July 14, 2020) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2020-07-14.Select%20Cmte.%20to%20Azar-HHS%20Esper-DOD%20Wolf-DHS%20Wilkie-%20VA%20re%20Administration%20PPE%20Contractor%20%281%29.pdf>).

<sup>23</sup> Letter from Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis, to Zachary D. Fuentes, Zach Fuentes LLC (July 14, 2020) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2020-07-14.Clyburn%20to%20Fuentes%20contractor%20re%20PPE.pdf>).

<sup>24</sup> *The Feds Gave a Former White House Official \$3 Million to Supply Masks to Navajo Hospitals. Some May Not Work*, ProPublica (May 22, 2020) (online at [www.propublica.org/article/the-feds-gave-a-former-white-house-official-3-million-to-supply-masks-to-navajo-hospitals-some-may-not-work](http://www.propublica.org/article/the-feds-gave-a-former-white-house-official-3-million-to-supply-masks-to-navajo-hospitals-some-may-not-work)); USASpending.gov, *Purchase Order (PO) 75H71020P01137* (online at [www.usaspending.gov/#/award/CONT\\_AWD\\_75H71020P01137\\_7527\\_-NONE\\_-NONE-](http://www.usaspending.gov/#/award/CONT_AWD_75H71020P01137_7527_-NONE_-NONE-)) (accessed on Mar. 22, 2021).

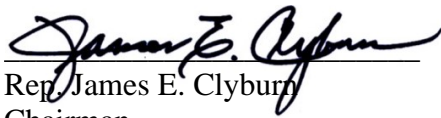
1. All documents and communications regarding any effort to import supplies to the United States in response to the pandemic, including but not limited to all communications related to Project Airbridge.
2. All policies, protocols, or guidance, whether formal or informal, related to Project Airbridge, including but not limited to any guidance on the price of goods to be sold.
3. All documents and communications related to the Private Sector Supply Chain Coalition or any other formal or informal task force or group convened to obtain supplies necessary to respond to the coronavirus, including but not limited to all communications to or from Dennis Robb, Jared Kushner, or any other participant in this group.
4. All documents and communications regarding any proposals or plans for the procurement or distribution of supplies in response to the coronavirus pandemic, including requests for guidance on priority locations for distribution of supplies.
5. All documents and communications regarding manufacturers offering supplies for purchase in connection with the coronavirus pandemic, including but not limited to communications regarding whether to purchase supplies from BYD or any other Chinese state-run business.
6. The complete contract files, including but not limited to all solicitations, contracts, task orders, justifications for other than full and open competition, responsibility determinations, documentation of acceptance or performance, and verification of price reasonableness for any contract for personal protective equipment, medical equipment, or testing supplies, with any of the following entities:
  - a. Phlow Corporation; and
  - b. Zach Fuentes LLC.
7. For each entity listed in Request 6, all documents and communications regarding the contract award and the company's performance under the contract, including internal agency communications and communications with the White House, other federal agencies, the company, or others.
8. All documents and communications with Peter Navarro, Christopher Abbott, or any personnel from the White House Office of Trade and Manufacturing Policy related to the federal government's response to the coronavirus pandemic, including but not limited to memoranda related to pandemic preparation or response or any efforts to obtain personal protective equipment, pharmaceutical products, or other medical supplies in response to the coronavirus crisis.



The House of Representatives established the Select Subcommittee on the Coronavirus Crisis “to conduct a full and complete investigation” of “issues related to the coronavirus crisis,” including the “preparedness for and response to the coronavirus crisis” and “executive branch policies, deliberations, decisions, activities, and internal and external communications related to the coronavirus crisis.”<sup>25</sup>

An attachment to this letter provides additional instructions for responding to the Select Subcommittee’s request. If you have any questions regarding this request, please contact Select Subcommittee staff at (202) 225-4400. Thank you for your attention to this matter.

Sincerely,



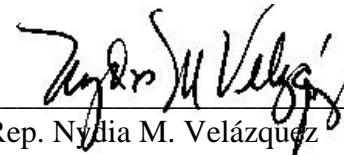
Rep. James E. Clyburn  
Chairman  
Select Subcommittee on the Coronavirus Crisis



Rep. Maxine Waters



Rep. Carolyn B. Maloney



Rep. Nydia M. Velázquez



Rep. Bill Foster



Rep. Jamie Raskin



Rep. Raja Krishnamoorthi

Enclosure

cc: The Honorable Steve Scalise, Ranking Member  
Select Subcommittee on the Coronavirus Crisis

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<sup>25</sup> H.R. 935, 116th Cong. (2020); H.R. 8, sec. 4(f).

## **Responding to Oversight Committee Document Requests**

1. In complying with this 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. Produce all 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.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. 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, and no modifications should be made to the original metadata:

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.

7. 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, zip file, box, or folder is produced, each should contain an index describing its contents.
8. 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.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committee's letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. 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.
15. 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) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by 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 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, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. 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.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production 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 2105 of the Rayburn House Office Building.
21. Upon completion of the production, 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 that 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, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office 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, mail, releases, electronic

message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, 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 that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” 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.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.