



November 12, 2019

The Honorable Peter A. DeFazio  
Chairman  
Committee on Transportation and Infrastructure  
House of Representatives  
Washington, DC 20515

Dear Chairman DeFazio:

I write in response to the House Committee on Transportation and Infrastructure's (Committee) October 24, 2019, letter and subpoena to Emily W. Murphy, the Administrator of General Services. As you know, the U.S. General Services Administration (GSA) has for months engaged in good-faith efforts to accommodate the Committee's interest in the Old Post Office Building lease, including the production of over 10,000 pages of documents to the Committee. In fact, the only documents in GSA's possession that are requested by your October 24 subpoena and have not already been produced are confidential financial records provided to GSA by the tenant pursuant to the terms of the lease and certain confidential legal memoranda prepared by the Office of General Counsel.

GSA has previously explained to the Committee that the lease agreement between GSA and the tenant constrains our ability to disclose the tenant's confidential financial information outside the agency except under certain enumerated circumstances. We view the service of a properly authorized congressional subpoena to be one of those circumstances and are therefore willing to offer the Committee an accommodation for that request. In order to accommodate both GSA's interest in preserving the confidentiality of proprietary information provided by those who seek to do business with the government and the Committee's stated interest in the particular financial records at issue, GSA is willing to provide the Committee an in-camera review of the requested financial records at a mutually agreeable time during the week of November 18, 2019, provided the Committee agrees not to publicly disclose the information contained in those records without GSA's consent.<sup>1</sup>

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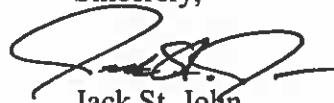
<sup>1</sup> The need for this non-disclosure agreement is underscored by our experience with a similar congressional request during the 114<sup>th</sup> Congress, when GSA produced some of the tenant's confidential financial information to Members of the House Committee on Oversight and Government Reform. Despite GSA's written request that the Members keep the information confidential and not disclose any of it publicly without GSA's consent, the information subsequently was released publicly without any consultation with GSA, much less our consent, in a letter posted on your Committee's website.

With regard to your request for legal memoranda prepared by the Office of General Counsel, we have explained that those documents are highly deliberative in nature and contain legal advice and attorney-client communications that implicate core confidentiality interests of the Executive Branch.<sup>2</sup> Accordingly, GSA is not prepared to provide those legal memoranda to the Committee.

Finally, contrary to public statements issued by the Committee, GSA has not coordinated its response to the Committee's oversight with the Trump Organization or its representatives. However, given the tenant's equities in the financial records at issue, I am copying the tenant's counsel on this letter to provide notice of the upcoming disclosure.

Please feel free to contact me at 202-501-2200 with any questions.

Sincerely,



Jack St. John  
General Counsel

cc: The Honorable Sam Graves, Ranking Member  
Stefan C. Passantino, Esq.

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<sup>2</sup> See Response to Congressional Requests for Information regarding Decisions made under the Independent Counsel Act, 10 U.S. Op. Off. Legal Counsel 68, 79 (1986) ("The reasons for the constitutional privilege against the compelled disclosure of executive branch deliberations have special force when legal advice is involved."). See also U.S. v. Nixon, 418 U.S. 683 at 705 ("Human experience teaches that those who expect the public dissemination of their remarks may well temper candor with a concern for appearances and for their own interests to the detriment of the decisionmaking process.").