

ONE HUNDRED TWELFTH CONGRESS  
**Congress of the United States**  
**House of Representatives**

COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115

Majority (202) 225-2927  
Minority (202) 225-3641

September 27, 2012

Mr. Jeffrey Zients  
Acting Director  
Office of Management and Budget  
725 17th Street, N.W.  
Washington, D.C. 20503

Dear Mr. Zients:

Pursuant to Rules X and XI of the U.S. House of Representatives, the Committee on Energy and Commerce is investigating whether the Office of Management and Budget (OMB) is properly and adequately implementing the Federal Activities Inventory Reform Act of 1998 (P.L. 105-270) (the "FAIR Act"). The FAIR Act reinforces selected features of OMB Circular A-76 aimed at guiding the competitive process that agency heads must use when they consider contracting out commercial activities. More specifically, the FAIR Act requires that agencies compile, annually, a list of commercial activities performed by their employees, and submit it to OMB for its review and consultation, before making the inventory available to Congress and the public.<sup>1</sup>

The Committee has learned that OMB is withholding permission from certain Federal departments and agencies, including the Department of Health and Human Services (HHS), the Department of Energy (DOE), the Department of Commerce (Commerce), and the Environmental Protection Agency (EPA), to make public their FAIR Act inventories from Fiscal Years 2008-2011. This is of special concern to the Committee because: (1) OMB may be violating a Federal law which requires that these inventories be promptly released; and (2) OMB's actions may also harm interested parties – such as contractors, Federal employees, Federal labor unions, or business and professional associations – in their efforts to submit challenges to the omission or inclusion of particular activities on these lists, as provided for under the law.<sup>2</sup>

Continuation of unfair government competition in the commercial sector impedes creation of the kinds of private-sector jobs that have never been more crucial for generating opportunity and jumpstarting the American economy. In light of the public interest in job creation, we therefore request that you provide the following information by October 9, 2012:

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<sup>1</sup> P.L. 105-270, Section 2(c).

<sup>2</sup> P.L. 105-270, Section 3.

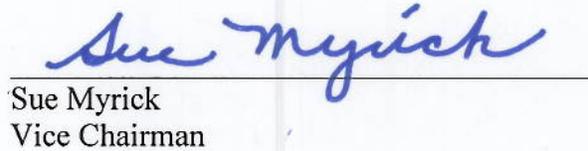
1. Why have the FAIR Act inventories from Fiscal Years 2008-2011 for HHS, DOE, Commerce, and EPA not been released?
2. Please provide Fiscal Years 2008-2011 FAIR Act inventories for HHS, DOE, Commerce, and EPA, including inventory totals of full time equivalents (FTEs) sorted by classification (inherently governmental, commercial activities, etc.).

If you have any questions regarding this request, please contact Sam Spector with the Committee staff at (202) 225-2927.

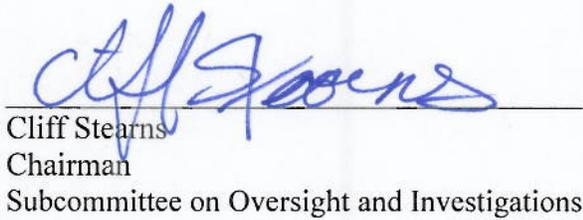
Sincerely,



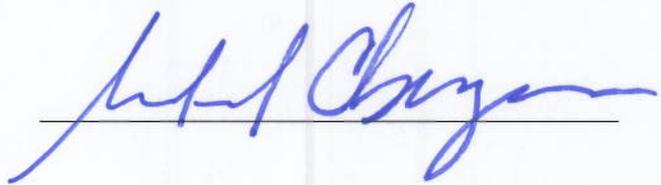
Fred Upton  
Chairman



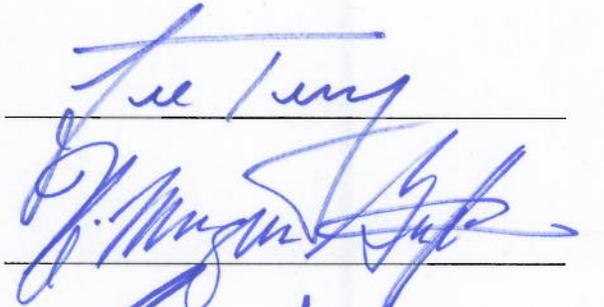
Sue Myrick  
Vice Chairman



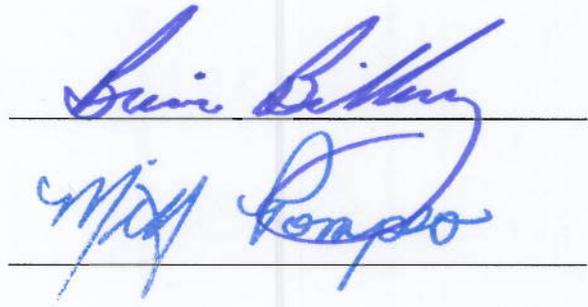
Cliff Stearns  
Chairman  
Subcommittee on Oversight and Investigations



Paul Chagnon



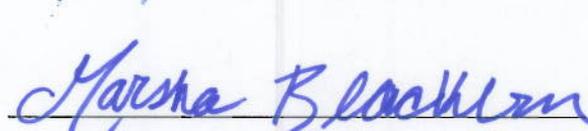
Lee Terry



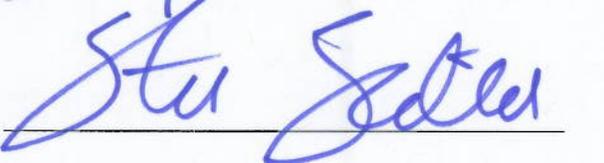
Brian Bittner



Jim Mangan



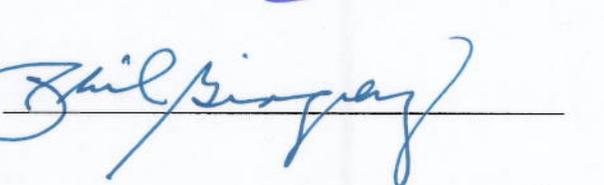
Mike Pompeo



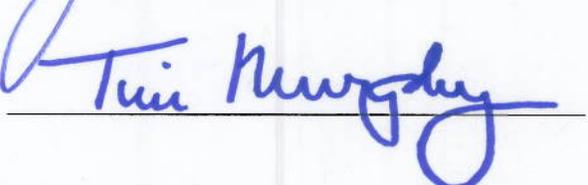
Lou Lomax



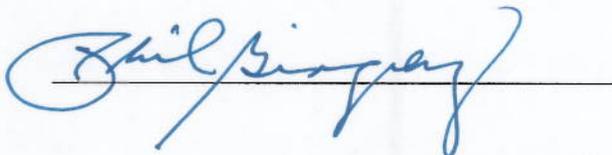
Marsha Blackburn



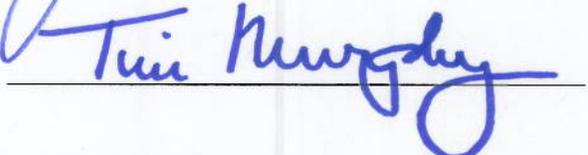
Steve Scalet



John S. McCain



Phil Gingrey



Tim Wirth

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cc: The Honorable Henry A. Waxman, Ranking Member

The Honorable Diana DeGette, Ranking Member  
Subcommittee on Oversight and Investigations

**Signatories**

Fred Upton  
Cliff Stearns  
Lee Terry  
H. Morgan Griffith  
Cory Gardner  
Steve Scalise  
Phil Gingrey

Sue Myrick  
Michael C. Burgess  
Brian Bilbray  
Mike Pompeo  
Marsha Blackburn  
John Sullivan  
Tim Murphy