

RULE ON INFORMATION REQUESTS AND SUBPOENAS TO THE EXECUTIVE BRANCH

1. For purposes of this rule,

“senior responsible official” refers to an executive branch official with control or custody over the records or information sought. The senior responsible official shall be a civil officer subject to removal from office under Article II, section 4, of the U.S. Constitution, unless no such civil officer has control or custody over the records or information sought. As circumstances warrant, there may be more than one senior responsible official designated with respect to a written request or subpoena, and different officials may be designated for a written request and the corresponding subpoena.

“executive branch” means any department, independent establishment, commission, administration, authority, board or bureau of the United States or a government corporation, including any independent agency not in the legislative or judicial branches.

“timeframe for response” with respect to any written request, subpoena or order of compliance shall be as stated therein, but shall not be less than ___ days for a written request, ___ days for a subpoena, or 10 days for an order of compliance.

“records or information” shall include [documents, electronic records, tangible items?]

“objections” shall include an appropriate privilege log, which shall describe with particularity the records or information withheld and the basis for withholding. The log shall be in

such form as instructed by the committee or, in the absence of such instructions, shall be in the form that would be required by the rules and practice of the United States District Court for the District of Columbia. Failure to file an appropriate and timely privilege log shall be a basis for overruling or disregarding any objection.

2. Any committee or subcommittee may initiate proceedings under this rule by making a written request for records or information to a senior responsible official. Such request shall state that it is made pursuant to this rule and shall be authorized by the chair of the committee.

3. If the senior responsible official files written objections within the timeframe for response, the committee and/or subcommittee staff, with the assistance of House counsel, shall seek to resolve these objections through negotiation and accommodation. [If, after a good faith effort to resolve these issues, a resolution cannot be reached, staff shall so certify to the chair of the committee.] The chair may specify a time period within which such good faith negotiations shall take place.

4. If, with respect to all or any portion of the written request, the senior responsible official fails to file objections or make full production of responsive records and information within the timeframe for response, the chair of the committee may issue a subpoena to the senior responsible official for any unproduced records or information as to which no objection was filed.

5. With respect to any portion of the written request to which timely objection was made, a subpoena to the senior responsible official may be issued, following conclusion of the good faith negotiations referred to in paragraph 3, by (a)

the chair, upon 48 hours notice to the ranking member, unless the ranking member objects within that period; or (b) a vote of the committee.

6. If the senior responsible official files written objections to a subpoena issued under paragraphs 4 or 5 within the timeframe for response, the committee may hold a hearing to consider these objections. The senior responsible official must personally attend this hearing, but the committee chair may grant an exception for good cause shown.

7. If the committee overrules some or all of the objections asserted, it may issue an order of compliance. The senior responsible official shall comply with such order within the timeframe for response unless, prior to such time, the President, personally and in writing, makes a claim of executive privilege with respect to the records and information at issue.

8. Upon direction of the committee chair, the House counsel shall bring an action in an appropriate federal court to enforce the subpoena if (a) the senior responsible official has failed to comply with or file objections to the subpoena within the subpoena's timeframe for response; or (b) if, within the timeframe for response to an order of compliance, the senior responsible official has failed to comply and the President has failed to make a claim of executive privilege.

9. During the pendency of the action referred to in paragraph 8, a point of order shall lie against any appropriations measure that would fund the salary or office of the senior responsible official.

10. Where the conduct of the senior responsible official so warrants, the committee may make a referral to the House

Committee on the Judiciary for a preliminary inquiry into impeachment.

11. If during any stage of the proceedings under this rule, in the judgment of the committee chair the resolution of privilege or other issues would be advanced by a third party review of the records or information in dispute, the chair may direct the Government Accountability Office to perform such a review.

12. Nothing in this rule prohibits the exercise of any other statutory, constitutional or other remedy with respect to any congressional subpoena or request for information, including in cases where the President makes a claim of executive privilege.