

Congress of the United States
Washington, DC 20515

April 22, 2010

Mr. Edward E. Whitacre, Jr.
Chairman and Chief Executive Officer
General Motors
200 Renaissance Center
Detroit, MI 48243-1312

Dear Mr. Whitacre:

As Ranking Members of the Oversight and Government Reform Committee and the Judiciary Committee, which respectively are the principal oversight committee in the House of Representatives, with broad jurisdiction, as set forth in House Rule X, and the committee with specific jurisdiction over bankruptcy issues and administrative law, we are writing to request your assistance. It appears that some Administration officials may have acted inappropriately during the high stakes negotiations relating to the bailout and bankruptcy of General Motors and Chrysler, which occurred concurrently with negotiations over increased fuel economy/ greenhouse gas standards (GHG), recently enacted by the Environmental Protection Agency (EPA) and the National Highway Traffic Safety Administration (NHTSA).

At a Rose Garden ceremony on May 19, 2009, President Obama announced an “historic agreement” between automakers, the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), the State of California, and the Obama Administration to set fuel economy/ GHG standards through 2016, hereinafter referred to as the “historic agreement.”¹ Unfortunately, this agreement is quite literally the product of secret, closed door negotiations, led by Assistant to the President for Energy and Climate Change, also known as the Energy and Environment Czar, Carol Browner. According to the *New York Times*, Ms. Browner imposed a “vow of silence” over the negotiations on vehicle fuel economy [standards].² California Air Resources Board Chairman Mary Nichols even bragged that “We put nothing in writing, ever.”³ Due to this unusual imposition of secrecy, any conversations between individuals in the automobile industry and members of the Administration, which led or contributed in any way to the historic agreement, shall be hereinafter referred to as the “secret negotiations.”

¹ The Honorable Barack Obama, President of the United States, Address at Rose Garden (May 19, 2009).

² Collin Sullivan, *Vow of Silence Key to White House- California Fuel Economy Talks*, N.Y. TIMES, May 20, 2009.

³ *Id.*

At the same time these secret negotiations were underway, the government was also engaged in bailout talks with General Motors (GM) and Chrysler.⁴ As you are aware, the bailout negotiations resulted in an ownership stake for the federal government of 61% of GM and 8% of Chrysler shares, respectively. It is unclear whether the Administration used leverage created by the possibility of a taxpayer bailout of GM and Chrysler to secure their cooperation and support for new fuel economy standards. Moreover, there is reason to believe Administration officials used inappropriate tactics to ensure broad based support across the industry.

Given the clear conflict-of-interest issues at play, which naturally arise when the government is in a position to pick winners and losers and impact the future viability of private entities, it was imperative that the Administration act with the utmost transparency. Instead, the White House imposed an unprecedented level of secrecy.

As previously expressed, there are concerns that these secret negotiations violated the Presidential Records Act (PRA), which places an affirmative duty on the President and key aides to adequately document decisions made while carrying out their official duties.⁵ Moreover, Judicial Watch has announced its intention to sue the Administration to enforce a Freedom of Information Act (FOIA) request seeking to obtain documents related to this historic agreement.⁶ Because the Obama Administration has so far acted to obstruct transparency, the American people and their elected representatives in Congress do not know whose best interest was served by this historic agreement.

In addition to these troubling actions, this historic agreement has become the primary reason provided by Administration officials to oppose Congressional Review Act resolutions of disapproval of EPA's Endangerment Finding. Such resolutions have been introduced in both the U.S. Senate and the U.S. House of Representatives, and would nullify EPA's attempts to use the Clean Air Act (CAA) to regulate greenhouse gases. By regulating greenhouse gas emissions from light-duty vehicles under section 202 of the CAA, the Administration has deliberately activated a cascade of job-killing regulations to be unleashed on American businesses.

In a letter sent on February 22, 2010, to Senator Jay Rockefeller (W.Va.), EPA Administrator Lisa Jackson specifically stated that if enacted into law, the Resolution of Disapproval would "undo an historic agreement among states, automakers, the federal government, and other stakeholders. California and at least thirteen other states that have adopted California's emission standards likely would enforce those standards within their

⁴ BILL CANIS, ET.AL, U.S. MOTOR VEHICLE INDUSTRY: FEDERAL FINANCIAL ASSISTANCE AND RESTRUCTURING, 20 (Congressional Research Service) (2009).

⁵ Letter from Congressman Darrell Issa to the Honorable Gregory Craig, Counsel to the President (Nov. 13, 2009).

⁶ Press Release, Judicial Watch, JW Sues Obama's Administration Over "Climate Czar" Records (Feb. 26, 2010) available at <http://www.judicialwatch.org/weeklyupdate/2010/08-what-obamas-climate-czar#anchor1>.

jurisdiction.”⁷ Recently, the Alliance of Automobile Manufacturers weighed in, echoing EPA’s concerns that “if the [Resolution of Disapproval] were enacted into law, the historic agreement creating the One National Program for regulating vehicle fuel economy and greenhouse gas emissions would collapse.”⁸ Clearly, this historic agreement crafted during secret negotiations and under a vow of silence, while the automobile industry was experiencing extreme economic duress, is at the very center of debate now in Congress.

As the historic agreement is now playing a leading role in the debate about regulating greenhouse gasses, it is imperative that Congress and the American people gain an understanding of exactly what transpired behind the closed doors of the White House. Accordingly, we request that you respond promptly to the following questions and document requests.

Please provide our Committees with the following:

1. The names and titles of any person employed by your company that participated in negotiations between your company and Administration officials, which in any way led to or contributed to the historic agreement;
2. The times, locations, and participants of any meeting between your company and Administration officials held in furtherance of the negotiations, which in any way led to or contributed to the historic agreement. Your response should include meetings with officials from the White House, the Auto Industry Task Force, or others within the Obama Administration, as well as any meetings with Mary Nichols, the head of the California Air Resources Board, or her staff;
3. All records and communications relating to the historic agreement, CAFE standards, the California Waiver, the Endangerment Finding, or the Resolution of Disapproval between your organization and Administration officials, including, but not limited to, communications with Carol Browner, Lisa Jackson, Lisa Heinzerling, David McIntosh, or any members of the Auto Task Force;
4. The name of any government program that your company has participated in since May 2009. You should include any grants received by any Federal Agency, the amount of the grant, and the date the grant was dispersed. You should also provide the Committee with an estimate of sales revenues attributable to the “Cash-for-Clunkers” program.

In addition, we request that you respond to the following questions:

⁷ Letter from The Honorable Lisa Jackson, Administrator, U.S. EPA to The Honorable Jay D. Rockefeller IV, U.S. Senator (Feb. 22, 2010).

⁸ Letter from Dave McCurdy, President Alliance of Automobile Manufacturers to the Honorable Nancy Pelosi, Speaker, U.S. House of Representative, et. al. (March 17, 2010).

1. During these secret negotiations, were individuals representing your company ordered not to take notes? If so, who issued this order? How was the order enforced? Please provide any documents discussing and/or related to such an order.
2. During these secret negotiations, did representatives from your company take a "vow of silence" or pledge of confidentiality as a precondition for participation? If so, who requested this commitment? How was the commitment enforced? Please provide any documents discussing and/or related to such a pledge or "vow of silence."
3. Did any member of the Administration require any additional preconditions before any negotiations were commenced? If so, who made the request? What were the preconditions? How were they enforced?
4. Please explain the economic circumstances confronting your company and the industry generally, from the period of July 2008 through May 2009. Was the topic of your company's economic health ever referenced by any Administration official during the negotiations which led or contributed to the historic agreement? Please explain.
5. Did any member of the Administration make reference to the economic or legal circumstances facing your company during any negotiations which led to or contributed to the historic agreement? Please explain any such reference.
6. During negotiations between your company and Administration officials, did any Administration official indicate that the Administration would approve the California waiver?
7. During negotiations between your company and Administration officials, did any Administration official indicate that EPA would find that GHGs endanger human health and welfare?
8. During negotiations between your company and Administration officials, did any member of the Administration threaten to have the President or another high-ranking government official, portray your company as "anti-green," or otherwise damage your corporate image if your company did not fully cooperate?
9. During negotiations between your company and Administration officials, did any member of the Administration threaten to write the light duty vehicle rule in a way that was detrimental to your company or was beneficial to your competitors unless your company cooperated fully?
10. During negotiations between your company and Administration officials, did any member of the Administration discuss lower GHG standards for vehicles your

Mr. Edward Whitacre, Jr.
April 22, 2010
Page 5 of 5

company manufactures in exchange for supporting the historic agreement, announced by the President on May 19, 2009?

Please note that, for purposes of responding to this request, the terms “records,” “communications,” and “referring or relating” should be interpreted consistently with the attached Definitions of Terms.

Given the great importance of the public policy issues involved, please respond no later than May 5, 2010. If you have any questions regarding this request, please contact Kristina Moore, Senior Counsel, Committee on Oversight and Government Reform at 202-225-5047 and Daniel Flores, Chief Minority Counsel, Subcommittee on Commercial and Administrative Law, Committee on the Judiciary at 202-226-8685.

Sincerely,



Darrell E. Issa
Ranking Member
Committee on Oversight and
Government Reform



Lamar Smith
Ranking Member
Committee on Judiciary

Cc: The Honorable Edolphus Towns, Chairman
Committee on Oversight and Government Reform
The Honorable John Conyers, Jr., Chairman
Committee on the Judiciary