



THE WHITE HOUSE
WASHINGTON

December 29, 2022

The Honorable Jim Jordan
Ranking Member
House Committee on the Judiciary
Rayburn House Office Building
Washington, D.C., 20515

Dear Ranking Member Jordan:

I write in response to your letter of November 18, 2022, to White House Chief of Staff Ronald A. Klain.

For the past two years, the Biden Administration has sought to work cooperatively with Congress. In the 118th Congress, the Biden Administration intends to follow the principles, policies, and practices first articulated by President Reagan in 1982, which have guided the Executive Branch's response to oversight requests from congressional committees for decades in a manner consistent with the Executive Branch's constitutional and statutory obligations.

The requests in your letter, and the members' requests to which you refer, were not made as part of the congressional oversight process in the 117th Congress to which the constitutional accommodation obligations apply. Congress's oversight authority is an implied incident of its Article I authorities. *McGrain v. Daugherty*, 273 U.S. 135, 174–75 (1927). Each House has the authority to delegate that function—its formal “power of inquiry . . . with process to enforce it,” *id.* at 174—pursuant to its own rules and procedures. Typically, however, Congress has not delegated such authority to individual members of Congress who are not committee chairmen, and the House has not done so under its current Rules. House Rule X, clause 2(a), provides that:

The various standing committees shall have general oversight responsibilities . . . in order to assist the House in—(1) its analysis, appraisal, and evaluation of—(A) the application, administration, execution, and effectiveness of Federal laws; and (B) conditions and circumstances that may indicate the necessity or desirability of enacting new or additional legislation; and (2) its formulation, consideration, and enactment of changes in Federal laws, and of such additional legislation as may be necessary or appropriate. (emphasis added).

The House Rules do not afford individual members a similar authority. *See Requests by Individual Members of Congress for Executive Branch Information*, 43 Op. O.L.C. ___, at *3–6 (Feb. 13, 2019).

Should the Committee issue similar or other requests in the 118th Congress, we will review and respond to them in good faith, consistent with the needs and obligations of both

branches. We expect the new Congress will undertake its oversight responsibilities in the same spirit of good faith.

I look forward to further discussions on this and other matters upon the convening of the new Congress.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. Sauber", with a stylized flourish at the end.

Richard Sauber
Special Counsel to the President