

# HOUSE COMMITTEE ON OVERSIGHT AND REFORM

## Handling of Sensitive Personal and Commercial Information

This document sets forth the practices of the Committee on Oversight and Reform for handling sensitive personal and commercial information that is voluntarily disclosed to the Committee. The Constitution grants Congress broad power to compel the production of documents and testimony. However, the Committee recognizes that certain private entities and government agencies have legitimate interests in protecting sensitive information that may implicate the privacy interests of individuals or the competitive interests of commercial entities. The Committee has developed the following practices for handling information voluntarily disclosed to it. The Committee will endeavor to follow these practices to the extent practicable, consistent with its oversight and legislative responsibilities.

### I. SENSITIVE PERSONAL INFORMATION

**Sensitive Personal Information** means information relating to an identified or identifiable individual that Committee staff deem to be sensitive, including but not limited to date of birth, social security number, other federal or state-issued identification numbers, protected health information as defined by 45 C.F.R. § 160.103, and personally identifiable financial information as defined by 16 C.F.R. § 313.3.

#### A. Redactions

If Committee staff deem that Sensitive Personal Information is not relevant to the Committee's investigation, Committee staff may instruct the producing party to redact this information.<sup>1</sup> Each redaction of Sensitive Personal Information must be narrowly tailored. Redactions are not permitted without prior agreement with the Committee, except when applied in accordance with the instructions accompanying the request (e.g., to assert a valid privilege and when accompanied by a privilege log).

#### B. Notice and Conferral Prior to Public Disclosure

The Committee does not grant prospective assurances of non-disclosure prior to receiving documents containing Sensitive Personal Information. If the Committee plans to publicly disclose Sensitive Personal Information, Committee staff will, to the extent practicable, provide the producing party reasonable notice of the planned disclosure and an opportunity to identify specific concerns or requests for redactions. The Committee will, to the extent practicable, limit the public disclosure of Sensitive Personal Information by disclosing information in generalized, aggregated, or redacted form.

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<sup>1</sup> For protected health information, the Committee may direct custodians to redact all identifiers listed at 45 C.F.R. § 164.514(b)(2).

**C. Producing Party's Obligation to Identify Documents with Sensitive Personal Information**

To avail itself of the process described above, producing parties must specifically identify, at the time of production, any documents that contain Sensitive Personal Information. Such identifications must be made in good faith. The Committee will not recognize non-specific assertions that all produced documents, or large sets of documents, contain Sensitive Personal Information without individualized showings.

**II. CONFIDENTIAL COMMERCIAL OR FINANCIAL INFORMATION**

**Confidential Commercial or Financial Information** means information belonging to a commercial entity that: (1) is directly related to that entity's business or trade and ordinarily treated with sensitivity by that commercial entity; and (2) would cause substantial harm to the entity's competitive position if disclosed, including trade secret information.

**A. Redactions**

Redactions are not permitted without prior agreement with the Committee, except when applied in accordance with the instructions accompanying the request (e.g., to assert a valid privilege and when accompanied by a privilege log). Each redaction must be narrowly tailored and specifically identify the privilege or other reason asserted for the redaction.

**B. Notice and Conferral Prior to Public Disclosure**

The Committee does not grant prospective assurances of non-disclosure prior to receiving documents containing Confidential Commercial or Financial Information. If the Committee plans to publicly disclose Confidential Commercial or Financial Information, Committee staff will, to the extent practicable, provide the producing party reasonable notice of the planned disclosure and an opportunity to identify specific concerns or requests for redactions.

**C. Producing Party's Obligation to Identify Documents with Commercially-Sensitive Information**

To avail itself of the process described above, producing parties must specifically identify, at the time of production, any documents that contain Confidential Commercial or Financial Information. Such identifications must be made in good faith. The Committee will not recognize non-specific assertions that all produced documents, or large sets of documents, contain Confidential Commercial or Financial Information without individualized showings.

**III. STORAGE OF SENSITIVE INFORMATION**

Committee staff will securely store documents containing Sensitive Personal Information or Confidential Commercial or Financial Information in locked file cabinets or on network folders that limit access, as appropriate. These documents will be archived in a manner consistent with Committee rules.