

ONE HUNDRED TWELFTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
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WASHINGTON, DC 20515-6115

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

November 2, 2011

The Honorable Fred Upton  
Chairman  
House Energy and Commerce Committee  
2125 Rayburn House Office Building  
Washington, DC 20515

The Honorable Cliff Stearns  
Chairman  
Subcommittee on Oversight and Investigations  
House Energy and Commerce Committee  
2125 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Upton and Chairman Stearns:

We are writing regarding your unprecedented decision to proceed tomorrow morning with a vote to authorize subpoenas to the White House. We believe that discussions today between the White House and the Committee have resulted in substantial progress towards reaching an accommodation that will advance the Committee's efforts to obtain information relevant to the investigation of the Department of Energy loan to Solyndra. In light of this turn of events, a Committee vote on subpoenas to the White House at this juncture would be a precipitous and irresponsible exercise of the Committee's powers.

As we have stated repeatedly, we believe that examination of the Department of Energy loan guarantee to Solyndra is a legitimate exercise of the oversight authority of the Committee on Energy and Commerce. We also believe that the Committee is entitled to obtain information from the Administration relevant to the responsible exercise of this authority, and the Committee's authority to obtain such information does not stop at the door of the White House.

At the same time, a subpoena to the White House is an extremely serious step in any congressional investigation. In contrast to subpoenas to executive branch agencies, a subpoena to the White House has the potential to reach communications all the way to the President's desk. Accordingly, when the investigative interests of Congress confront White House equities, it is the longstanding practice of Congress and the White House to engage in meaningful

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discussions to attempt mutual accommodation so that Congress can secure information necessary to advance its oversight goals without unduly imposing on executive branch prerogatives. In fact, we are unaware of any subpoena to the White House from the Committee on Energy and Commerce under previous chairs.

With respect to the subject of tomorrow's resolution, we believe the commitment made by the White House today marked a significant step forward toward providing the Committee with information relevant to its investigation of the Solyndra loan. The starting point for these discussions was the Committee's October 5, 2011, request for all White House documents relating to the Solyndra loan guarantee. In response to this request, the White House proposed the Committee narrow its request to the following areas:

- (1) the influence of campaign contributions on the decision whether or not to grant or restructure the Solyndra loan guarantee;
- (2) involvement by the White House in the decision whether or not to make a conditional commitment to Solyndra for its loan guarantee;
- (3) involvement by the White House in the decision whether or not to close the Solyndra loan guarantee;
- (4) involvement by the White House in the decision to subordinate the government's interest as part of the restructuring of the Solyndra loan guarantee

The White House further stated that they would conduct searches for any responsive materials in these areas and work with the Committee to accommodate its requests.

These four issues are the core issues on which the Committee has focused to date in the Solyndra investigation, and we believe this offer marks a good faith effort by the White House to advance the mutual accommodation process. No reasonable person could view the current situation as an impasse between the White House and the Committee that merits moving to a subpoena.

The Committee should provide the White House an opportunity to follow through on this commitment. By doing so the Committee would not give up any rights it has to seek additional information from the White House or to ultimately issue a subpoena if it does reach an impasse. We respectfully request that you avoid unnecessarily escalating an inter-branch conflict and cancel tomorrow's business meeting.

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Sincerely,



Henry A. Waxman  
Ranking Member  
Committee on Energy  
and Commerce



Diana DeGette  
Ranking Member  
Subcommittee on Oversight  
and Investigations