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ONE HUNDRED TENTH CONGRESS

U.S. House of Representatives
Committee on Energy and Commerce
Washington, DC 20515-6115

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April 13, 2007

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The Honorable Stephen L. Johnson
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-0001

Dear Administrator Johnson:

The Environmental Protection Agency (EPA) has described Performance Track as the "gold standard" for agency voluntary environmental protection programs. Now in its fifth year, Performance Track is operated by the Administrator's Office of Policy, Evaluation and Innovation (OPEI).

To become a member of the Performance Track program, a facility must be in compliance with all applicable environmental laws and regulations and must commit to environmental improvements that exceed regulatory requirements. Facilities that continue to meet the program's eligibility requirements and fulfill their environmental improvement commitments receive benefits and incentives from EPA, including: low priority for inspections; reduced monitoring and reporting under several Federal environmental laws; special access to EPA decision makers; a longer time period for storage of hazardous wastes; and priority status for certain permit reviews.

In addition, EPA employees and contractors provide a number of other "member services" to Performance Track facilities including: motivational posters; camera-ready advertisement "slicks"; press release templates; draft congratulatory letters to be signed by State Governors and other public officials; "tips" for communicating with employees, the public, and the media about Performance Track; video and powerpoint presentations; vehicle signs; flags; and event/conference planning. We understand that EPA has also been using government resources to operate "call centers" to "cold call" facilities to recruit new Performance Track members.

On March 29, 2007, the EPA's Office of the Inspector General (OIG) issued a report with findings related to whether Performance Track member companies were meeting their environmental commitments. The OIG found that only 7 percent of the members sampled met all of their commitments.

Pursuant to Rules X and XI of the Rules of House of Representatives, the Subcommittee on Environment and Hazardous Materials and the Subcommittee on Oversight and Investigations are conducting an inquiry into expenditures that have been made by EPA to provide Performance Track member services and to recruit new members. The Subcommittees are concerned about taxpayer dollars being wisely used at a time when EPA's core environmental and public health programs, ones that are specifically authorized by Congress, are severely underfunded.

The Subcommittees are also investigating whether the procedures set forth in the OIG's Project Management Handbook (January 14, 2005) were followed with respect to the agency's review of the work product of the OIG team evaluating Performance Track and whether the OIG handled the review of this product in a way that calls its independence into question. In addition, the Subcommittees are conducting an investigation into the veracity of certain testimony received at the March 1, 2007, Subcommittee on Environment and Hazardous Materials hearing on EPA's budget.

Therefore, in furtherance of the Subcommittees' inquiry and investigations, we request that the following documents be provided to the Committee by no later than April 30, 2007:

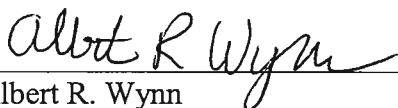
1. Copies of all records containing or reflecting communications between the Office of the Administrator (including OPEI) and the OIG related to Performance Track, and/or the evaluation conducted by the OIG, starting from November 1, 2006, through March 8, 2007.
2. Copies of all records within the Office of the Administrator (including OPEI) related to Performance Track, and/or the evaluation conducted by the OIG, starting from November 1, 2006, through March 8, 2007.
3. A list of all contracts that have been awarded or accessed for use with respect to Performance Track marketing, recruiting, and member services, including: use of call centers; design of advertising materials; preparation of press release templates; drafting press releases about or for Performance Track members; drafting articles about or for Performance Track members; drafting congratulatory or recognition letters for signature by State officials; developing instructions or "tips" for dealing with employees, the public, or the media; designing and selling posters for display at Performance Track facilities; vehicle signage; and Performance Track flags.
4. Copies of all contract task orders and/or work assignments that have been issued since January 1, 2005, with respect to Performance Track marketing, recruiting, and member services including: use of call centers; design of advertising materials; preparation of press release templates; drafting of press releases about or for Performance Track members; drafting of articles about or for Performance Track members; drafting of congratulatory or recognition letters for signature by State officials; developing instructions or "tips" for dealing with employees, the public, or the media; design of posters for display at Performance Track facilities; vehicle signage; and Performance Track flags.

5. Copies of Performance Track-related marketing and advertising materials, press release templates, press releases, articles, draft congratulatory and recognition letters; "tips" for dealing with employees, the public, and the media; posters, vehicle signage, and flags produced or prepared by EPA employees or contractors since January 1, 2005.

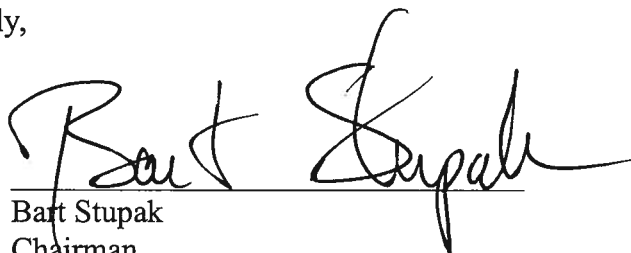
For purposes of this request, the term "records" is to be construed in the broadest sense and shall mean any written or graphic material including: correspondence; memoranda; letters; studies; evaluations; notes; plans; drafts of evaluation materials and reports; comments on drafts of evaluation materials and reports; summaries of personal conversations and interviews; minutes or notes from meetings; drafts of documents; e-mails; calendar entries; appointment books; and telephone notes and messages.

Should you have any questions regarding this letter, please contact us or have your staff contact Caroline Ahearn or John Sopko of the Committee on Energy and Commerce staff at (202) 225-2927.

Sincerely,



Albert R. Wynn
Chairman
Subcommittee on Environment and
Hazardous Materials



Bart Stupak
Chairman
Subcommittee on Oversight and
Investigations

cc: The Honorable John D. Dingell, Chairman
Committee on Energy and Commerce

The Honorable Joe Barton, Ranking Member
Committee on Energy and Commerce

The Honorable John Shimkus, Ranking Member
Subcommittee on Environment and Hazardous Materials

The Honorable Ed Whitaker, Ranking Member
Subcommittee on Oversight and Investigation