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March 27, 2015

VIA ELECTRONIC TRANSMISSION

The Honorable John F. Kerry
Secretary of State
Office of the Secretary
United States Department of State
2201 C Street, N.W.
Washington, D.C. 20520

Dear Secretary Kerry:

I am writing to follow up on inquiries I have been making since June 13, 2013 and August 15, 2013 regarding the State Department's use of Special Government Employee (SGE) designations, and in particular, what steps the Department took to ensure that Ms. Huma Abedin's outside employment with a political intelligence and corporate advisory firm did not conflict with her simultaneous employment at the State Department. I thank the Department for its responses to my inquiries made June 13, 2013 and August 15, 2013. However, to date, the Department's answers have been largely unresponsive.

By way of example, I have still not received the records relating to communications between the State Department and Ms. Abedin's other employer, Teneo. Nor has the Department provided records of communications between the State Department and any clients or entities represented by Teneo. The Department has also failed to provide any email communications between Ms. Abedin and Teneo or Teneo's clients. The State Department's November 14, 2014 response to my inquiries, stated, "Based on an internal review, the Department has never had any contracts with Teneo."¹ But that is not responsive to my request, and it does not mean that communications between full-time Department employees, or SGEs, and Teneo, or clients of Teneo, do not exist.

A number of conflict of interest concerns arise when a government employee is simultaneously being paid by a private company, especially when that company, Teneo, "brings together the disciplines of government and public affairs."² Moreover, these concerns are

¹ Letter dated November 14, 2014 from U.S. Dept. of State to Senator Grassley.

² Teneo, <http://teneoholdings.com/pages/businesses>.

heightened when high level employees, such as Ms. Abedin, may have used non-government email accounts to engage in both government and private business.

Furthermore, Ms. Abedin and other State Department employees appear to have been improperly categorized as SGEs. The Department's response dated November 14, 2014 states, "An individual may receive an SGE designation if he or she is joining the Department from the private sector or is coming from another government position."³ However, in Ms. Abedin's case, she neither came from the private sector nor came from another government position. She converted from a full-time employee to become an SGE, with seemingly little difference in her job description or responsibilities. The purpose of the SGE program "...is to help the Government obtain the temporary or intermittent services of persons with special knowledge and skills whose principal employment is outside the Government."⁴ Yet, in essence, she kept the same job but instead of working in Washington, D.C. she worked part-time in New York and was subsequently hired by Teneo and the Clinton Global Initiative.⁵ It is unclear what special knowledge or skills Ms. Abedin possessed that the government could not have easily obtained otherwise from regular government employees.

As explained in my letter to Ms. Abedin dated June 13, 2013, the State Department's current use of the SGE designation blurs the line between public and private sector employees. It is especially troubling when employees receive full-time salaries for what appears to be part-time work. The taxpayer deserves to know why Ms. Abedin was permitted to perform her job in New York when the position had normally been performed in Washington, D.C. and why she was permitted to become an SGE from inside government when normally an SGE would come from outside government. Likewise, the taxpayer has a right to know how many other State Department SGEs were given similarly favorable treatment.

Recent revelations about the record keeping practices at the State Department under Secretary Clinton raise questions as to whether any email communications from Secretary Clinton and Ms. Abedin to Teneo, or Teneo's clients, were properly preserved.⁶ According to Secretary Clinton, she built a private email server in her personal residence and used a private email account on that server. Use of the personal account prevented regular government records retention processes from preserving her work-related emails. Moreover, according to press reports, Ms. Abedin also had an email account on Secretary Clinton's private server.⁷

Perhaps this explains why the Department has been unresponsive to my previous letters seeking records relating to Ms. Abedin's status as an SGE, as well as to media requests under the Freedom of Information Act (FOIA). As such, any email searches that may have been conducted in response to my letters are incomplete as the Department apparently did not have any access to

³ Letter dated November 14, 2014 from U.S. Dept. of State to Senator Grassley.

⁴ Robert F. Kennedy, Memorandum Regarding Conflict of Interest Provisions of Public Law 87-849, 28 FR 985 (January 28, 1963).

⁵ Letter dated July 5, 2014 from Huma Abedin to U.S. Dept. of State.

⁶ Stephen Dinan, "State Department agrees to reopen Hillary Clinton email case," THE WASHINGTON TIMES (March 12, 2015); Daniel Halper, "Hillary's top two aides used personal email at State Department", THE WEEKLY STANDARD (March 11, 2015).

⁷ Daniel Halper, "Hillary's top two aides used personal email at State Department", THE WEEKLY STANDARD (March 11, 2015).

Secretary Clinton's or Ms. Abedin's email records on that server. The Senate Judiciary Committee, which has direct legislative jurisdiction over FOIA, needs to have a clear understanding of the effects that these email practices at the State Department have had on FOIA compliance.

The State Department Records Management manual, as well as federal law⁸, imparts a number of records retention obligations on employees.⁹ These include the requirement that departing employees be reminded about their obligations in preserving their email communications and records,¹⁰ surrender classified and unclassified material for review prior to deletion,¹¹ and attest that the surrender has in fact occurred.¹² Given Secretary Clinton's public comments, it is unclear to what extent she or Ms. Abedin complied with these requirements.

Accordingly, please provide the following information:

1. What steps has the State Department taken to comply with my June 13, 2013 request?
2. Please provide the names of all current or former State Department employees within the Secretary's office who used, or continue to use, private e-mail addresses to conduct State Department business.
3. Please provide the names of all current or former State Department employees who used, or continue to use, private e-mail addresses on Secretary Clinton's non-government email server.
4. How will the State Department ensure that all of the individuals referenced in the answers to questions 2 and 3 above provide all their contacts with Teneo or with clients of Teneo? Please provide the detailed steps that the State Department will take to ensure compliance.
5. Ms. Abedin's simultaneous employment with Teneo, a private company, and the State Department raises serious ethics and conflicts concerns. Did Ms. Abedin conduct Teneo business through her non-government e-mail account reportedly on Secretary Clinton's personal server?
6. The State Department's July 17, 2013 response states that Ms. Abedin required a security clearance for her work. Can the Department verify that she did not send or receive any classified information via the non-government e-mail account she reportedly used on Secretary Clinton's personal server? If so, please explain how.

⁸ 44 U.S.C. §3101.

⁹ U.S. State Department Records Management Manual, 5 FAH-4 H-217.1(a)-(b).

¹⁰ U.S. State Department Records Management Manual, 5 FAH-4 H-217.1(a)(1).

¹¹ U.S. State Department Records Management Manual, 5 FAH-4 H-217.2.(a)-(b).

¹² Form OF-109.

7. In Ms. Abedin's July 5, 2013 letter she stated that she was specifically tasked with supervising the "Secretary's schedule and travel." Was planning Secretary Clinton's travel performed on a non-government email account?
8. Did Secretary Clinton prepare an inventory of unclassified papers and nonrecord materials to the State Department prior to departure? Did Ms. Abedin do the same?
9. Did Secretary Clinton prepare an inventory of classified papers and materials to the State Department prior to departure? Did Ms. Abedin do the same?
10. Did Secretary Clinton request a review of any materials proposed for removal? Did Ms. Abedin do the same?
11. Did a State Department official review the entirety of Secretary Clinton's email server prior to Secretary Clinton deleting any emails?
12. Did Ms. Abedin delete any work-related emails from Secretary Clinton's server?
13. Did a State Department official notify Secretary Clinton regarding her obligations to preserve written and typed material? Was such a notice provided to Ms. Abedin?
14. Were the unclassified documents authorized to be removed from Secretary Clinton's personal server by the State Department? If so, please provide the authorizing document and name of authorizing official(s).
15. State Department spokesperson Jennifer Psaki was recently asked whether Secretary Clinton signed a separation statement acknowledging proper surrender of classified and unclassified material to State Department officials as required by the State Department Records Management manual to which she stated, "We are fairly certain that she didn't [sign the form] or we would have record of it," and Ms. Psaki also noted that recent secretaries of state have not signed the form either.¹³ Can you confirm that Secretary Clinton, and previous secretaries of state, did not sign a separation statement? If so, why have they not been required to do so? Did Ms. Abedin sign such a statement? If so, please provide a copy. If not, why was she not required to do so?
16. Please provide records of all communications by State Department SGEs who have used private e-mail addresses from 2005 to the present.
17. Did the Department consider any other candidates besides Ms. Abedin for the expert position requiring expert knowledge on policy, administrative, and other matters? If so, please provide the supporting documentation. If not, why not?

¹³ Deirdre Walsh, "Psaki: Clinton didn't sign 'separation' form, but former secretaries didn't either," CNN (March 17, 2015).

18. Please provide any other instances in which a State Department employee converted from a regular, full-time position to an SGE, and subsequently became employed by a private company.
19. Please provide the work papers, background documents, and/or emails that concluded that Ms. Abedin's employment as an SGE did not present any ethical concerns or conflicts of interest with her multiple private sector jobs.
20. Was Ms. Abedin reminded before her departure from government employment about her obligations in preserving her email communications and records? If so, please identify the persons who did so and the supporting documentation.

Please number your responses according to their corresponding questions. Please respond no later than April 6, 2015. If you have any questions, please contact Josh Flynn-Brown of my Committee staff at (202) 224-5225. Thank you for your cooperation in this important matter.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary