

Congress of the United States
Washington, DC 20510

February 3, 2022

The Honorable Gene Dodaro
Comptroller General of the United States
Government Accountability Office
441 G Street Northwest
Washington, District of Columbia 20548

Dear Mr. Dodaro,

On January 11, 2022, the Pretrial Services Agency (“PSA”) for the District of Columbia (an independent entity established within the Court Services and Offender Supervision Agency) published in the Federal Register a notice of its intent to create a system of records known as the “Employee Religious Exception Request Information System.” According to the public notice, the agency provided a report of the system of records to the Office of Management and Budget and to Congress, in accordance with 5 U.S.C. §552a(r).

We write to seek your determination of whether the notice of a new system of records constitutes a rule for purposes of the Congressional Review Act (“CRA”). As you are aware, the CRA relies on the definition of “rule” found in 5 U.S.C. §551(4):

“[R]ule means the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency and includes the approval or prescription for the future of rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services or allowances therefor or of valuations, costs, or accounting, or practices bearing on any of the foregoing”.

Based upon this broad definition, the Government Accountability Office (GAO) has correctly observed that “agency pronouncements may be rules within the definition of 5 U.S.C. §551, and the CRA, even if they are not subject to notice and comment rulemaking requirements under section 553.” The PSA’s notice appears to have particular applicability, is prospective in nature, and prescribes the procedure or practice requirements of the agency relating to individuals employed by or working for the agency who submit a religious accommodation request related to a federally mandated vaccination requirement. For these reasons, we respectfully request that you

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evaluate whether the PSA's notice and implementation of a new system of records is a "rule" under the CRA.

We thank you for your prompt attention and response to this inquiry.

Sincerely,



Rick Scott
United States Senator



Daniel Webster
United States Representative



Thom Tillis
United States Senator



Bill Posey
United States Representative



Mike Braun
United States Senator



Scott Perry
United States Representative



Roger Marshall
United States Senator



Jeff Duncan
United States Representative



James M. Inhofe
United States Senator



Randy Weber
United States Representative



Marco Rubio
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James Lankford
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Bob Good
United States Representative



Doug LaMalfa
United States Representative



Glenn Grothman
United States Representative



Gus Bilirakis
United States Representative



Doug Lamborn
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Ronny L. Jackson
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Andy Biggs
United States Representative



Brian Mast
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Jody Hice
United States Representative



Louie Gohmert
United States Representative



Eric A. "Rick" Crawford
United States Representative



Lauren Boebert
United States Representative



Warren Davidson
United States Representative



Ralph Norman
United States Representative



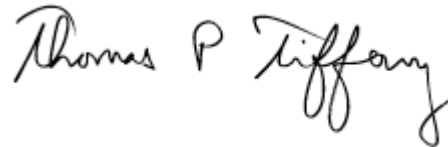
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United States Representative



Ben Cline
United States Representative



Mary E. Miller
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Tom Tiffany
United States Representative



Robert B. Aderholt
United States Representative



Dr. John Joyce
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United States Representative