



Opening Statement of Investigations and Oversight Chairman Jay Obernolte

Investigations and Oversight Subcommittee Hearing

A Bar Too High: Concerns with CEQ's Proposed Regulatory Hurdle for Federal Contracting

September 20, 2023

Today's hearing will focus on a proposed regulation by the Federal Acquisition Regulatory (FAR) Council that would require federal contractors to disclose greenhouse gas (GHG) emissions and set reduction targets. Further, the rule would require that a London-based company validate those targets.

Today's hearing is not about climate change or whether companies should or should not reduce their greenhouse emissions. In fact, many companies have voluntarily chosen to reduce emissions and are verifying those reductions in a variety of ways. Today's hearing is about government overreach and questionable processes that result in the Administration picking winners and losers.

Regardless of political affiliation, every member of this institution should be bothered by regulatory policies that usurp Congress' legislative authority.

And every member of Congress should be concerned with any regulatory action that arbitrarily selects one company to do business with the federal government without a meritorious selection process. The federal government should not be in the business of picking winners and losers.

However, that is exactly the case in this instance. This Administration published a proposed rule in November, which declared that all major contractors would have to set greenhouse gas emission reduction targets, and then hire a specific private foreign-based company to validate those targets. The company anointed by the Administration to perform this task is called the Science Based Target Initiative or SBTi.

From what this Committee has gathered, SBTi did not go through a competitive selection process before being chosen. According to documents provided by OMB, representatives from SBTi met with the Council on Environmental Quality (CEQ) to discuss this proposed regulation TWICE. There was no other email traffic, no formal vetting or application, and it appears SBTi did not even have to submit a single piece of paper explaining why they were the best for the job.

The choice of SBTi is not the only concern this Committee has with this proposed rule. Because of its poor drafting, it has multiple practical, financial, and national security issues.

For instance, ceding this authority to a foreign entity means that we cannot verify that SBTi's processes are based in sound science. We will have very little oversight of the decisions being made.

What's more, companies specializing in oil and gas may not even be able to submit proposals to meet SBTi's science-based targets and that could have a severe impact on our mission readiness in industries like space and national defense.

Our hope is that this hearing will highlight these issues and help our members consider these concerns as we move forward.

The Investigations and Oversight Subcommittee has investigated this issue since February of this year. It reviewed many documents, sent multiple letters, and met with quite a few individuals, including representatives from government agencies and stakeholders, in order to get to this point.

The Committee invited Chair Mallory of CEQ and the head of the FAR Council to join us today to answer our remaining questions regarding how this proposed rule came into being--questions only they can answer.

Unfortunately, they are not here today.

Therefore, today's witnesses are experts who are here to help Congress understand the legal, practical, financial, and national security concerns associated with this proposed regulation.

We hope your testimonies today will generally cover four main issues.

First, the Constitutionality of this proposed regulation.

Second, the practical impacts that the proposed regulation would have, specifically as it pertains to industry and national security.

Third, the issues regarding the delegation of a quasi-government regulatory authority to SBTi and the conflict of interest concerns inherent in having a single entity act as both standard setter and validator.

Fourth and finally, the inability of both the executive and legislative branches to conduct oversight of SBTi. Specifically, into the standards and scientific methods implemented by SBTi when they provide these services. I look forward to robust discussion.

Thank you all for your willingness to be here.