Congress of the United States

Washington, DC 20515

April 29, 2026

M. Patrick Pouyanné
Chairman & CEO
Total Energies
Tour Coupole - 2, place Jean Millier
92078 Paris La Défense Cedex
France

Dear M. Pouyanné:

On April 6, 2026, we requested documents and information from you about your company's settlement agreements with the Department of the Interior. Although we have not yet received any documents, the settlement agreements have become publicly available, and they confirm and surpass our worst fears of what has taken place.

The Department of the Interior (DOI) paid your company a nearly $1 billion corporate handout with taxpayer money under indefensible and possibly illegal terms. Buried in the settlement agreement is a clause that unconstitutionally attempts to keep any court from ever reviewing it. The first agreement, concerning Lease No. OCS-A 0538 (New York Bight), paid $795,000,000 to Attentive Energy LLC, a TotalEnergies majority-owned entity.[1] The second, concerning Lease No. OCS-A 0545 (Carolina Long Bay), paid $133,333,333 to TotalEnergies Carolina Long Bay, LLC.[2] The two agreements are nearly identical in structure and legal defects. Making a secretive, taxpayer-funded deal and trying to shield it from any legislative oversight does not generate confidence that this deal benefits the American people. Therefore, Committee Democrats have opened a formal investigation into you and your company, TotalEnergies.

The deal was unlawful in at least four separate ways: (1) DOI's excuse of national security to cancel offshore wind leases may have been fabricated to justify the deal after it was already sealed; (2) the amount paid by DOI to TotalEnergies violates federal law because it does not adhere to a Congressionally determined formula for calculating compensation for cancelled leases; (3) DOI illegally used money from the Judgement Fund to pay TotalEnergies; and (4) the settlement agreement purports to prohibit any federal court from reviewing the deal, a provision that is unconstitutional on its face.

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[1] Settlement Agreement Between the United States and TotalEnergies Carolina Long Bay, LLC (Mar. 23, 2026), https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/Carolina%20Bay%20Agreement.pdf?VersionId=HopJl_XAKE1BrLqv9SAPk5bR.RVf4Es6.

[2] Settlement Agreement Between the United States and Attentive Energy, LLC (March 23, 2026), https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/4.%20Attentive%20Agreement.pdf?VersionId=uFdQf7xB5VyxvzYkY5K_HN4WtQ.Xqvan.

I. PRETEXTUAL NATIONAL SECURITY ASSESSMENT

The assertion that the offshore wind projects would impair national security appears to have been a fabricated justification for canceling the leases. Each settlement agreement contains a separate provision at Paragraph 2 making qualifying investments eligible from November 18, 2025—more than four months before the agreements were signed on March 23. That retroactive effective date suggests DOI and TotalEnergies had reached at least an agreement in principle by mid-November 2025, before the purported national security assessment had concluded, or perhaps before it had even begun. That reading may find some support in Paragraph 16 of both agreements, which states that the March 23 settlement "constitutes the complete agreement between the Parties, and supersedes all prior and contemporaneous agreements, understandings, negotiations, and discussions among the Parties, whether oral or written."[3] While such merger clauses are standard, the language is at least consistent with the existence of prior discussions or agreements to close out.

However, the limited public record, we are aware of only one DOI official who reviewed the classified Department of Defense (DOD) assessment; they did not access that material until November 26, 2025, eight days after the date from which the settlement agreements' qualifying investment period runs.[4] That timeline raises the troubling possibility that the national security assessment was not merely pretextual, but also that TotalEnergies may have negotiated the final settlement agreement with full knowledge that the rationale for canceling the leases was false. This possibility is supported by your own statements that TotalEnergies initiated discussions with DOI to receive reimbursement for the subject leases due to policy constraints well prior to any DOD assessment.[5] Under the Administrative Procedure Act, an agency cannot rely on a justification it did not actually have when it made its decision.[6] If DOI had committed to the essential terms of this deal before it was briefed on the national security assessment it now cites publicly, that assessment is legally pretextual, the cancellation cannot survive legal scrutiny for being arbitrary and capricious, and Congress and the American people were lied to about why their government paid nearly $1 billion to a foreign energy company.

II. UNLAWFUL REPAYMENT

Even if the administration's national security assessment was found to be anything other than pretextual, the amount paid to TotalEnergies has no basis in federal law. The Outer Continental Shelf Lands Act (OCSLA) provides that when the federal government cancels an offshore energy lease, the lessee is entitled to receive the lesser of two amounts: the fair value of the cancelled rights as of the date of cancellation, or the excess of the lessee's total expenditures on the lease over revenues received.[7] That formula, incorporated into your lease agreements, is the statutory ceiling on what TotalEnergies can receive, and it is the only measure of damages Congress

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[3] Settlement Agreement Between the United States and TotalEnergies Carolina Long Bay, LLC, at 6 (Mar. 23, 2026).
[4] Decl. of Jacob Tyner ¶ 6, *Revolution Wind LLC v. Burgum*, No. 25-cv-02999 (D.D.C. Jan. 8, 2026), ECF No. 60-1.
[5] Amy Harder, *TotalEnergies CEO on controversial offshore wind deal: "It's our money"*, AXIOS (Apr. 17, 2026), https://www.axios.com/2026/04/17/totalenergies-trump-offshore-wind-deal.
[6] *See* 5 U.S.C. § 706(2).
[7] 43 U.S.C. § 1334(a)(2)(C).

authorized. Under that formula, TotalEnergies was entitled to whatever the current fair value of OCS-A 0545 and OCS-A 0538 actually was on March 23, 2026, not a full refund of the purchase price. The administration did not use the statutory formula, as incorporated into the leases. It paid nearly $1 billion—a figure bearing no relationship to what Congress wrote into law, and almost certainly a significant overpayment even under the most favorable reading of the statute given the administration's hostility towards offshore wind development.

The administration cannot escape the law by invoking broad settlement authority. The Department of Justice's Office of Legal Counsel has established that the Attorney General's power to settle cases on behalf of an executive agency must be traceable to "a discernible source of statutory authority,"[8] and even other policy considerations, like this administration's fixation on blocking offshore wind, "generally must be rooted in the purposes of the statute that govern the agency."[9] OCSLA is the governing statute in this case. A settlement that pays a lessee a full refund of its original lease price, drawn from a separate Treasury reserve, conditioned on fossil fuel reinvestment commitments that appear nowhere in OCSLA, and calculated without commitment to the statutory formula Congress wrote, has no connection to OCSLA's text. By the executive branch's own precedent, the payment was unauthorized precisely because "there is no inherent executive authority to settle cases on terms that have no connection with the agency's statutory warrant,"[10] and "a settlement that would result in action 'plainly at variance with Congress' intent' would be foreclosed."[11]

The deal's investment commitment raises a separate problem. The agreements count qualifying expenditures dating back to November 18, 2025, more than four months before the agreement was signed. A qualifying expenditure is defined in the settlement agreement as any capital spending by TotalEnergies or its affiliates on oil and gas, liquefied natural gas, or other "non-renewables based electricity" projects in the United States.[12] If TotalEnergies had already made qualifying investments during that window, it would be able to satisfy the nearly $1 billion reinvestment commitment with money it already spent. Secretary Burgum told the American public this deal represented "new investment" in the United States.[13] If TotalEnergies satisfies its obligation with pre-existing expenditures, then Secretary Burgum's statement is false, and the American taxpayer will have paid nearly $1 billion for nothing TotalEnergies did not already plan to do.

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[8] 23 Op. O.L.C. at 137.
[9] *Id*. at 138.
[10] Lars Noah, *Administrative Arm-Twisting in the Shadow of Congressional Delegations of Authority*, 1997 WIS. L. REV. 873, 926 (quoting Marshall J. Breger, *Regulatory Flexibility and the Administrative State*, 32 TULSA L. J. 325, 338 (1996)).
[11] 23 Op. O.L.C. at 139.
[12] Settlement Agreement Between the United States and TotalEnergies Carolina Long Bay, LLC, at 3 (Mar. 23, 2026); Settlement Agreement Between the United States and Attentive Energy, LLC, at 3 (Mar. 23, 2026).
[13] U.S. Dep't of the Interior, Press Release, Interior and TotalEnergies Agree to End Offshore Wind Projects, Lowering Costs for American Families (Mar. 23, 2026), https://www.doi.gov/pressreleases/interior-and-totalenergies-agree-end-offshore-wind-projects-lowering-costs-american.

III. UNAUTHORIZED USE OF THE JUDGMENT FUND

The Judgment Fund exists for the sole purpose of satisfying court judgments and compromise settlements of actual or imminent litigation against the United States, made by or under the supervision of the Attorney General.[14] When Secretary Burgum signed the settlement agreements in March 2026, the agreements' own recitals framed it a settlement agreement. After coming under fire, he abandoned that characterization entirely. He now publicly describes the settlement agreement as a refund.[15] Neither characterization is legally sufficient to gift TotalEnergies with nearly $1 billion taxpayer dollars. Nor can Secretary Burgum cure one defect by retreating to another.

The Constitution commands that "no money shall be drawn from the Treasury except in consequence of appropriations made by law."[16] The Supreme Court has made clear that anyone seeking money from the United States must identify a statutory appropriation authorizing payment.[17] Congress created the Judgment Fund in 1956 precisely to streamline the payment of judgments the government had lost in court without requiring a separate appropriation for each one.[18] In 1961, it extended the fund to cover compromise settlements negotiated by the Attorney General in connection with actual or imminent litigation.[19] The fund was designed to relieve Congress of a claims-review process that had grown unworkable, consuming an outsized share of legislative time.[20] It was not designed to give the executive branch a permanent, uncapped spending account insulated from the appropriations process.

If this is a litigation settlement as Secretary Burgum once claimed, it fails to meet the statutory requirements for payment from the Judgment Fund on multiple independent grounds. The Comptroller General has held that a valid settlement which is not otherwise provided for by law must under 28 U.S.C. § 2414 include three things: (1) a genuine contested dispute over liability or amount; (2) a referral of that dispute to the Attorney General for litigation defense; and (3) a settlement negotiated by the Attorney General or a person authorized by him.[21] The agreements were signed by the Secretary of the Interior, not the Attorney General, yet under 28 U.S.C. § 516 the conduct of litigation on behalf of the United States is reserved to the Department of Justice. Although Attorney General Pam Bondi issued a statement praising the deal, the Department of Justice's only public role was a press release quote, raising serious questions about whether this agreement was rushed through without the DOJ vetting required by law. In addition, the settlement

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[14] *See* 31 U.S.C. § 1304; 28 U.S.C. § 2414
[15] Budget Hearing – Department of the Interior: Hearing Before the Subcomm. on Interior, Environment, and Related Agencies of the H. Comm. on Appropriations, 119th Cong. (2026) (statement of Doug Burgum, Sec'y of the Dep't of the Interior).
[16] U.S. Const. art. I, § 9, cl. 7.
[17] OPM v. Richmond, 496 U.S. 414, 946 (1990) ("Money may be paid out only through an appropriation made by law; in other words, the payment of money from the Treasury must be authorized by statute.")
[18] Andrew S. Coghlan, CONG. RSCH. SERV., No. IF13139, *Congress's Authority to Restrict Monetary Civil Settlements* (Dec. 12, 2022), https://www.congress.gov/crs-product/IF13139.
[19] Act of Aug. 30, 1961, Pub. L. No. 87-187, § 2, 75 Stat. 415, 416 (1961).
[20] Andrew S. Coghlan, CONG. RSCH. SERV., No. IF13139, *Congress's Authority to Restrict Monetary Civil Settlements* (Dec. 12, 2022), https://www.congress.gov/crs-product/IF13139.
[21] 58 Comp. Gen. 667 (1979).

agreements' recitals acknowledge that a stop-work order was never issued, as it was for other offshore wind projects.[22] Total's breach of contract claim is described in the past conditional tense, as something it "would have" asserted under hypothetical circumstances that never materialized.[23]

If this is a refund as Secretary Burgum now claims, the Judgment Fund was categorically unavailable.[24] The governing rule is that a refund claim is chargeable to the appropriation account to which the original payment was credited, whether that account is lapsed or current, reimbursable or non-reimbursable.[25] TotalEnergies' $928,333,333 bonus bid was deposited into the United States Treasury through DOI's Office of Natural Resources Revenue.[26] Any obligation to return those funds belongs to the account that received them. Routing the payment through the Judgment Fund instead would unlawfully augment appropriation.[27]

Furthermore, the agreement does not actually refund the bonus bid. It conditions payment on TotalEnergies making nearly $1 billion in fossil fuel investments by a date certain.[28] A genuine refund returns what was received, unconditionally, upon a determination that the government improperly received or retained the original funds. DOI structured a directed subsidy in which the executive branch unilaterally committed federal funds to subsidize investment in fossil fuel infrastructure. The administration has failed to request an authorization from Congress for such spending.

Perhaps more troubling is that the theory DOI is advancing has no limiting principle. Under this approach, any administration—this one or the next—could approach any company or organization, inform it that the government was considering but had not taken an adverse action, accept the counterparty's representation that it would have sued, and draw on the Judgment Fund to pay that counterparty in exchange for whatever behavior the administration wishes to incentivize. For example, a future administration could tell a fossil fuel company it was considering, but had not initiated, revocation of a federal oil and gas lease, accept the company's assurance that it would

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[22] Settlement Agreement Between the United States and TotalEnergies Carolina Long Bay, LLC, at 2 (Mar. 23, 2026); Settlement Agreement Between the United States and Attentive Energy, LLC, at 2 (Mar. 23, 2026) (stating in the conditional tense through agreements that "if this offshore wind project would have continued, BOEM would have issued to [TotalEnergies' offshore wind projects] an order to suspend construction and operation of this project indefinitely due to national security issues, similar to the suspension order issued by BOEM to five other offshore wind projects on December 22, 2025"); *see* U.S. Dep't of the Interior, Press Release, The Trump Administration Protects U.S. National Security by Pausing Offshore Wind Leases (Dec. 22, 2025), https://www.doi.gov/pressreleases/trump-administration-protects-us-national-security-pausing-offshore-wind-leases.

[23] Settlement Agreement Between the United States and TotalEnergies Carolina Long Bay, LLC, at 2 (Mar. 23, 2026); Settlement Agreement Between the United States and Attentive Energy, LLC, at 2 (Mar. 23, 2026).

[24] Budget Hearing – Department of the Interior: Hearing Before the Subcomm. on Interior, Environment, and Related Agencies of the H. Comm. on Appropriations, 119th Cong. (2026) (statement of Doug Burgum, Sec'y of the Dep't of the Interior).

[25] *See* 17 Comp. Gen. 859, 860 (1938), *reaffirmed*, 29 Comp. Gen. 78, 79 (1949).

[26] Settlement Agreement Between the United States and TotalEnergies Carolina Long Bay, LLC, at 1 (Mar. 23, 2026); Settlement Agreement Between the United States and Attentive Energy, LLC, at 1 (Mar. 23, 2026).

[27] *See* 61 Comp. Gen. 224 (1982); U.S. Comp. Gen., B-259065, *Judgment Fund and Law Enforcement Seizure Claims* (Dec. 21, 1995).

[28] Settlement Agreement Between the United States and TotalEnergies Carolina Long Bay, LLC, at 4 (Mar. 23, 2026).

have filed suit in the Court of Federal Claims, and condition a Judgment Fund payment on the company committing to wind down drilling operations and invest in renewable energy. It could do the same with a gun manufacturer, drawing on the Judgment Fund to pay the manufacturer in exchange for ceasing production of a disfavored product like the AR-15 or bump stocks. It could approach a religious institution, a conservative media outlet, a political organization, or any entity with a colorable federal nexus and manufacture a hypothetical adverse action and use the threat of that action to extract behavioral commitments paid for with virtually unlimited federal funds, all without a single congressional vote. The only requirements would be a hypothetical threat, a side agreement, and a check drawn from a permanent, uncapped federal account that Congress never authorized for this purpose.

The constitutional stakes are greater than a single improper payment. The Judgment Fund has no annual cap, and individual disbursements receive no congressional review. Congress designed it that way because court judgments are involuntary; if a judge orders the government to pay, then it must pay. However, that logic does not extend to voluntary deals the executive branch chose to enter, on terms it negotiated, with counterparties it selected. Applied to those transactions, the Judgment Fund becomes the ultimate political slush fund. The Antideficiency Act exists to prevent exactly this kind of executive waste, fraud, and abuse.

Under either characterization Secretary Burgum has offered, the payment was drawn from the wrong account and made without legal authorization to TotalEnergies.

IV. NON-REVIEWABILITY

The text of the settlement agreements suggests that DOI and you both knew this deal was indefensible. Paragraph 18 of each agreement states that it is not judicially reviewable, a provision with no precedent in any federal settlement not expressly authorized by Congress, and one that is not only legally ineffective but almost certainly unconstitutional as applied beyond the parties themselves.[29]

Federal courts derive their jurisdiction exclusively from Article III of the Constitution and Acts of Congress. Congress also has the power to withdraw that jurisdiction by statute and has done so in specific contexts.[30] However, jurisdiction-stripping is an act of Congress, not a contractual right or discretion of the executive branch. The Administrative Procedure Act establishes a strong presumption of judicial reviewability of executive action; judicial review generally remains available unless a statute forecloses it. The Supreme Court has held that courts should restrict access to judicial review "only upon a showing of 'clear and convincing evidence' of a contrary

[29] Settlement Agreement Between the United States and TotalEnergies Carolina Long Bay, LLC, at 6 (Mar. 23, 2026). The settlement agreements only allow judicial review for instances of fraud or misrepresentation by TotalEnergies. The Department of the Interior is conspicuously absent from this limited exception.
[30] U.S. Const. art. III, § 2, cl. 2.

legislative intent."[31] The intent must come from Congress, not from the parties to an executive settlement agreement.

No settlement signed by TotalEnergies and Secretary Burgum can strip a court of the power to examine, in a properly presented case, whether this cancellation was lawful. The provision accomplishes nothing legally. But it indicates the parties' perception of the agreement: this deal could not survive scrutiny. An administration confident in the legality of its actions does not bury a self-declared immunity clause at the end of a settlement agreement. The decision to include Paragraph 18 is itself evidence of consciousness of wrongdoing.

V. REQUESTS

Though Secretary Burgum has offered shifting explanations for the nearly $ 1 billion corporate handout to TotalEnergies, he has not yet offered a lawful one. TotalEnergies must immediately preserve all documents, communications, records, and data, in any format, relating to the subject matter of this investigation. This preservation obligation applies without limitation to: hard copy documents; electronic files and databases; email, calendar, and contact records; electronic messages sent using both official and personal accounts or devices; and records created using text messages, phone-based message applications, or encryption or ephemeral messaging software, including but not limited to Signal, WhatsApp, Microsoft Teams, and any similar platforms. This obligation extends to all documents and data in the possession, custody, or control of TotalEnergies, its affiliates, subsidiaries, officers, directors, employees, agents, outside counsel, and any third-party auditors or advisors retained in connection with any matter covered by this investigation, regardless of whether such materials are stored on corporate or personal systems or devices. This preservation obligation is immediate, applies to materials already in existence, and creates a continuing obligation to preserve all newly generated documents and communications on any covered subject matter for the duration of this investigation. Destruction, concealment, alteration, or failure to preserve materials that are potentially relevant to this investigation will be construed as obstruction.[32]

Given the serious legal questions surrounding this payment, the Committee requests that TotalEnergies immediately place all funds received from the United States Treasury arising from these settlement agreements into an escrow account, including the $928,333,333, where it shall remain pending the conclusion of this investigation. TotalEnergies has no legitimate claim to funds that were disbursed in violation of federal law. If TotalEnergies refuse, this Committee will pursue every available remedy to ensure the American taxpayer is made whole.

The Committee on Natural Resources has broad jurisdiction to conduct oversight of outer continental shelf lands and the administration of the Outer Continental Shelf Lands Act to inform legislative reforms. The Committee on the Judiciary has broad jurisdiction to conduct oversight of

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[31] Abbott Laboratories v. Gardner, 387 U.S. 136, 141 (1967); see also Bowen v. Michigan Academy of Family Physicians, 476 U.S. 667, 670 (1986) ("We begin with the strong presumption that Congress intends judicial review of administrative action").
[32] *See* 18 § U.S.C. 1505; 18 U.S.C. § 1512(c).

the Administrative Procedure Act and the Department of Justice and its supervision of the Judgment Fund. Accordingly, to assist with the Committees' oversight, we insist on the information we requested on April 6, 2026. Please produce the following information as soon as possible but no later than 5:00pm on May 13, 2026:

1. All documents and communications referring or relating to the relinquishment of, or any reimbursement arrangement or related negotiations concerning, Lease No. OCS-A 0545 and Lease No. OCS-A 0538;

2. All documents and communications referring or relating to legal analyses, demand letters, notices of intent to sue, or litigation hold notices prepared or transmitted in connection with TotalEnergies' offshore wind leases or its decision to seek reimbursement from the federal government;

3. All documents and communications referring or relating to TotalEnergies' capital planning, investment commitments, or project financing obligations related to the Rio Grande LNG facility or any other domestic fossil fuel project identified in the settlement;

4. All communications between TotalEnergies and the Department of the Interior, Bureau of Ocean Energy Management, Department of Justice, Department of Energy or any office of the White House from January 20, 2025, to the present referring or relating to the relinquishment of, or any potential reimbursement arrangement or related negotiations concerning, Lease No. OCS-A 0545 and Lease No. OCS-A 0538;

5. All documents and communications referring or relating to all prior and contemporaneous agreements, understandings, negotiations, and discussions among the Parties, whether oral or written, with respect to Lease No. OCS-A 0545 and Lease No. OCS-A 0538 as referred to in Paragraph 16 of the Settlement Agreements;

6. All communications between TotalEnergies and any other offshore wind lessee or energy company regarding the structure, terms, or availability of reimbursement arrangements with the federal government; and

7. All documents and communications referring or relating to TotalEnergies' satisfaction of the Eligible Expenditures condition set forth in Paragraph 2 of the Settlement Agreement, including but not limited to:

    a. the identity and selection of the third-party auditor retained to verify Eligible Expenditures;

    b. any unqualified accounting audit reports, bank statements, equity cash call notices, or capital expenditure records submitted or prepared in connection with that condition; and

c. any communications between TotalEnergies, its third-party auditor, and DOI or its components regarding the verification or acceptance of Eligible Expenditures.

Since the settlement documents provide more evidence for potential wrongdoing, and you have not yet provided any documents, we have now opened a formal investigation. The contract you made with Trump's administration bypasses the system Congress created to prevent corruption, created a payment arrangement that is likely illegal, and snuck in a provision that wrongfully claims federal courts have no right to review your deal. In defense of the American people and Congressional authority, we will hold you accountable for this billion-dollar ripoff.

Sincerely,

Jared Huffman
Ranking Member
Committee on Natural Resources

Jamie Raskin
Ranking Member
Committee on the Judiciary