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December 17, 2012

The Honorable Hilda L. Solis
Secretary
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, D.C. 20210

Dear Secretary Solis:

Thank you for taking the time on October 17, 2012 to discuss the committee's ongoing oversight of the Department of Labor.¹ As we discussed, I am concerned by the department's pattern of untimely and inadequate response to the committee's oversight requests. In many cases, the department's lack of response has obstructed the committee's constitutional authority to oversee the department's execution of the laws. During our conversation, you assured me the department's intent is to respond diligently to the committee's oversight. As such, I look forward to receiving timely and adequate responses to future inquiries and requests for information.

During the call, I also expressed the need for the department to produce materials relating to its July 30, 2012 guidance on the applicability of the Worker Adjustment and Retraining Notification Act (WARN Act) to potential sequestration-caused layoffs.² Now, more than four months after our original request, the committee is still waiting and determined to receive the relevant materials.

On August 2, I, along with Representatives Walberg and Roe, sent you a letter regarding the guidance.³ The letter expressed our concern that the guidance is misleading and incomplete with

¹ Telephone conversation between the Honorable John Kline, Chairman, House Committee on Education and the Workforce, and the Honorable Hilda L. Solis, Secretary, U.S. Dept. of Labor (Oct. 17, 2012).

² *Guidance on the Applicability of the Worker Adjustment and Retraining Notification (WARN) Act, 29 U.S.C., 2010-2109, to layoffs that may occur among Federal Contractors, including in the Defense Industry as a Result of Sequestration*, Emp't and Training Admin., U.S. Dep't of Labor (July 30, 2012), available at http://wdr.doleta.gov/directives/attach/TEGL/TEGL_3a_12_acc.pdf.

³ Letter from the Honorable John Kline, Chairman, House Committee on Education and the Workforce, the Honorable Tim Walberg, Chairman, House Subcommittee on Workforce Protections, and the Honorable Phil Roe, Chairman, House Subcommittee on Health, Employment, Labor, and Pensions, to the Honorable Hilda L. Solis, Secretary, U.S. Dep't of Labor (Aug. 2, 2012).

respect to federal contractors' obligations under and the department's role in enforcing the WARN Act. The letter also requested information, documents, and communications relating to the guidance.

Having not received a response, we again requested the materials on September 24.⁴ On September 25, the department provided a written response that did not include any documents or communications.⁵ As a result, on September 26, my committee staff contacted Assistant Secretary for Congressional and Intergovernmental Affairs Brian Kennedy, who confirmed the department would provide documents and communications.

However, the documents the department subsequently provided on October 2 fail to respond to our request. We asked for all relevant documents and communications relating to the guidance, including the department's communications with outside parties such as federal contractors, and with other federal and state governmental agencies such as the Office of Management and Budget (OMB). Not only do the documents provided bear no specific relation to the circumstances of sequestration, not a single document provided was created by this administration. Such a response is unacceptable.

I understand committee staff raised this concern in a meeting with your staff on November 29.⁶ I understand your staff indicated other documents and communications relating to the WARN Act guidance may exist, and they would investigate the matter further. It is troubling to learn the department may have failed to comprehensively identify and produce all responsive materials. In light of that concern, I respectfully request the department conduct the appropriate search for and provide me and Representatives Walberg and Roe all relevant documents and communications **no later than January 7, 2013**. For your reference, we requested the following:

1. All documents and communications relating to the July 30, 2012 guidance.
2. All documents from and communications with OMB, other federal and state agencies, and members of Congress relating to the applicability of the WARN Act to sequestration.
3. All documents from and communications with outside parties, including federal contractors, relating to the applicability of the WARN Act to sequestration.

⁴ Letter from the Honorable John Kline, Chairman, House Committee on Education and the Workforce, the Honorable Tim Walberg, Chairman, House Subcommittee on Workforce Protections, and the Honorable Phil Roe, Chairman, House Subcommittee on Health, Employment, Labor, and Pensions, to the Honorable Hilda L. Solis, Secretary, U.S. Dep't of Labor (Sept. 24, 2012).

⁵ Letter from the Honorable Brian V. Kennedy, Assistance Secretary for Congressional and Intergovernmental Affairs, U.S. Dep't of Labor, to the Honorable John Kline, Chairman, House Committee on Education and the Workforce, the Honorable Tim Walberg, Chairman, House Subcommittee on Workforce Protections, and the Honorable Phil Roe, Chairman, House Subcommittee on Health, Employment, Labor, and Pensions (Sept. 25, 2012).

⁶ Meeting between staff for the House Committee on Education and the Workforce and staff for the U.S. Dep't of Labor (Nov. 29, 2012).

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4. All Training and Employment Guidance Letters or other guidance or materials issued by the department relating to the WARN Act since its enactment in 1988.

Finally, please be advised I have instructed committee staff to follow up with your staff this week regarding the substance of the department's response to this specific request. If you have questions or concerns, your staff may contact Donald McIntosh, Molly Conway, or Joe Wheeler of the committee staff at (202) 225-7101.

Sincerely,



JOHN KLINE

Chairman

Committee on Education and the Workforce

Enclosure

CC: The Honorable Tim Walberg, Chairman, Subcommittee on Workforce Protections

The Honorable Phil Roe, Chairman, Subcommittee on Health, Employment, Labor, and Pensions

The Honorable George Miller, Senior Democratic Member, Committee on Education and the Workforce

The Honorable Lynn Woolsey, Senior Democratic Member, Subcommittee on Workforce Protections