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COMMITTEE ON
EDUCATION AND THE WORKFORCE
U.S. HOUSE OF REPRESENTATIVES
2176 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6100

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May 6, 2024

The Honorable Julie A. Su
Acting Secretary
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Dear Acting Secretary Su:

On March 6, 2024, the Committee on Education and the Workforce (Committee) sent the Department of Labor (DOL) a letter continuing the Committee's investigation of DOL's plans for returning to regular, in-person work.¹ On April 18, 2024, the Department provided an insufficient response that failed to address the Committee's core request. Given this failure, the Committee has decided that issuance of a subpoena is necessary.²

According to a January 19, 2024 news article, White House Chief of Staff Jeff Zients sent an email to executive branch agency and department heads asking for their progress on return-to-office policies.³ In this email, he asked agencies to submit their return-to-office action plans to the Office of Management and Budget (OMB) by January 26, 2024.⁴ This email was a continuation of the White House's unsuccessful efforts to get agency employees back in the office. In April 2023, OMB issued guidance to agencies to update their work environment plans and policies "with the general expectation that agency headquarters will continue to substantially increase in-person presence in the office."⁵

¹ Letter from Chairwoman Foxx to Julie A. Su, Acting Sec'y of Lab. (Mar. 6, 2024), https://edworkforce.house.gov/uploadedfiles/final_03.06.24_letter_to_dol.pdf.

² Letter from Liz Watson, Asst. Sec'y of Lab., to Chairwoman Foxx (Apr. 18, 2024) (on file with Comm.).

³ Hans Nichols, *Scoop: W.H. Demands Proof from Cabinet officials on Return-to-Office*, AXIOS (Jan. 19, 2024), <https://www.axios.com/2024/01/19/zients-biden-cabinet-return-to-office>.

⁴ *Id.*

⁵ JASON MILLER, DEPUTY DIR. FOR MGMT., OMB, MEASURING WHAT MATTERS: ORGANIZATIONAL HEALTH AND PERFORMANCE (Apr. 13, 2023), <https://www.whitehouse.gov/omb/briefing-room/2023/04/13/measuring-what-matters-organizational-health-and-performance/>.

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The Committee has been conducting oversight on DOL's return to in-person work since the beginning of the 118th Congress.⁶ In furtherance of this oversight, the Committee's March 6 letter requested a copy of DOL's return-to-office action plan. Given the demands of the White House and OMB for agencies to update their return-to-office policies, DOL should have some form of a return-to-office plan in place.

My previous letter raised the concern that pandemic-style remote work policies do not reflect post-pandemic realities. Without the requested information, the Committee is not persuaded that DOL is taking the transition back to in-person work seriously. As a result, the Committee now seeks documents on DOL's return-to-office action plan to ensure accountability for taxpayers who are paying for an absentee federal government that ceased regular operations nearly four years ago.

Rule X of the Rules of the House of Representatives authorizes the Committee to conduct oversight of matters involving the organization, administration, and general management of DOL to inform potential legislation.⁷ The Committee's investigation of DOL's return-to-work plans is within the Committee's jurisdiction and is a "subject on which legislation 'could be had.'"⁸

Please find attached a subpoena compelling you to provide the materials delineated in the attached schedule of documents no later than 12:00 p.m. on May 14, 2024.

Sincerely,



Virginia Foxx
Chairwoman

Enclosures

⁶ See Letter from Chairwoman Virginia Foxx to Martin J. Walsh, Sec'y of Lab. (Jan. 12, 2023), https://edworkforce.house.gov/uploadedfiles/01.12.23_follow_up_letter_dol.pdf.

⁷ RULES OF THE U.S. HOUSE OF REPRESENTATIVES 6, 7, 9-12 (118th Cong.) (Jan. 10, 2023).

⁸ *Trump v. Mazars USA, LLP*, 140 S.Ct. 2019, 2031 (2020) (internal citations omitted).

SUBPOENA

**BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE
CONGRESS OF THE UNITED STATES OF AMERICA**

To Acting Secretary Julie A. Su

You are hereby commanded to be and appear before the
Committee on Education and the Workforce



of the House of Representatives of the United States at the place, date, and time specified below.

- to produce the things identified on the attached schedule touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: 2176 Rayburn House Office Building, Washington, D.C. 20515
Date: May 14, 2024 Time: 12:00 p.m. EST

- to testify at a deposition touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____
Date: _____ Time: _____

- to testify at a hearing touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____
Date: _____ Time: _____

To the U.S. Marshals Service, or any unauthorized Member or congressional staff
_____ to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at
the city of Washington, D.C. this 6 day of May, 2024.

Attest: Kevin F. McCulver
Clerk

Virginia Fox
Chairman or Authorized Member

PROOF OF SERVICE

Subpoena for

Acting Secretary Julie A. Su

Address U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210

before the Committee on Education and the Workforce



*U.S. House of Representatives
118th Congress*

Served by (print name) Mindy Barry

Title General Counsel, U.S. House of Representatives Committee on Education and the Workforce

Manner of service email

Date May 6 2024

Signature of Server _____

Address 2176 Rayburn House Office Building, Washington DC 20515

In accordance with the attached Schedule instructions and definitions, you, Julie A. Su, Acting Secretary of Labor, are required to produce all documents and communications described below in your possession, custody, or control, in unredacted form:

1. All Department of Labor (DOL) plans submitted to the Office of Management and Budget (OMB) in response to the email sent by White House Chief of Staff Jeff Zients as referenced in the Axios article entitled “Scoop: W.H. demands proof from Cabinet officials on return-to-office” published on January 19, 2024.
2. The updated DOL “Work Environment Plan” submitted to OMB in accordance with OMB Memorandum M-23-15.

Instructions for Responding to a Subpoena

U.S. House Committee on Education and the Workforce

118th Congress

1. In complying with the U.S. House Committee on Education and the Workforce's (Committee) subpoena, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Subpoenaed records, documents, data, or information should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization, or person denoted in the subpoena has been or is also known by any other name or alias than herein denoted, the subpoena should be read also to include the alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic form should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
 - a. All documents derived from word processing programs, email applications, instant message logs, spreadsheets, and wherever else practicable should be produced in text searchable Portable Document Format (".pdf") format. Spreadsheets should also be provided in their native form. Audio and video files should be produced in their native format, although picture files associated with email or word processing programs should be produced in .pdf format along with the document it is contained in or to which it is attached.
 - b. Alternatively, the production should consist of single page Tagged Image Files (".tif") files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - c. Document numbers in the load file should match document Bates numbers and .tif file names.

- d. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - e. All electronic documents produced should include the following fields of metadata specific to each document:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD, INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION, BEGATTACH.
 - f. If any of the subpoenaed information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), consult with the Committee staff to determine the appropriate format in which to produce the information.
6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.
 7. Documents produced in response to the subpoena should be produced together with copies of file labels, dividers or identifying markers with which they were associated when the subpoena was served.
 8. When producing documents, identify the paragraph in the Committee's schedule to which the documents respond.
 9. Do not refuse to produce documents on the basis that any other person or entity also possesses non-identical or identical copies of the same documents.
 10. This subpoena is continuing in nature and applies to any newly discovered information. Any record, document, compilation of data or information not produced because it has not been located or discovered by the return date, should be produced immediately upon subsequent location or discovery.
 11. All documents should be Bates-stamped sequentially and produced sequentially. Each page should bear a unique Bates number.

12. Two sets of documents should be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets should be delivered to the Majority Staff in Room 2176 of the Rayburn House Office Building or provided electronically to Majority General Counsel at mindy.barry@mail.house.gov and the Minority Staff in Room 2101 of the Rayburn Office Building or provided electronically to Minority General Counsels at ilana.brunner@mail.house.gov and christian.haines@mail.house.gov.
13. If compliance with the subpoena cannot be made in full by the date specified in the subpoena, compliance should be made to the extent possible by that date. Notify Committee staff as soon as possible if full compliance cannot be made by the date specified in the subpoena and provide an explanation for why full compliance is not possible by that date.
14. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
15. In the event that a portion of a document is redacted on the basis of privilege, provide a privilege log containing the following information concerning any such redaction: (a) the privilege asserted; (b) the location of the redaction in the document; (c) the general subject matter of the redacted material; (d) the date, author, and addressee of the document, if not readily apparent; and (e) the relationship of the author and addressee to each other.
16. If any document responsive to this subpoena was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this subpoena referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the subpoena, produce all documents which would be responsive as if the date or other descriptive detail were correct.
18. In the event a complete response requires the production of classified information, provide as much information in unclassified form as possible in your response and send all classified information under separate cover via the Office of Senate Security.
19. Unless otherwise specified, the period covered by this subpoena is from January 1, 2019, to the present.

20. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Schedule Definitions

21. The term "document" in the subpoena, the schedule, or the instructions means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone calls, meetings or other communications, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings, and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
22. The term "communication" in the subpoena, the schedule, or the instructions means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face to face, in meetings, by telephone, mail, telex, facsimile, email (desktop or mobile device), computer, text message, instant message, MMS or SMS message, regular mail, telexes, discussions, releases, delivery, or otherwise.
23. The terms "and" and "or" in the subpoena, the schedule, or the instructions should be construed broadly and either conjunctively or disjunctively to bring within the scope of this subpoena any information which might otherwise be construed to be outside its

scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.

24. The terms "person" or "persons" in the subpoena, the schedule, or the instructions mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, businesses or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.
25. The term "identify" in the subpoena, the schedule, or the instructions, when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
26. The terms "referring" or "relating" in the subpoena, the schedule, or the instructions, when used separately or collectively, with respect to any given subject, mean anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
27. The term "employee" in the subpoena, the schedule, or the instructions means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, or subcontractor.
28. The terms "you" and "your" in the subpoena, the schedule, or the instructions refer to yourself; your firm, corporation, partnership, association, department, or other legal or government entity, including all subsidiaries, divisions, branches, or other units thereof; and all members, officers, employees, agents, contractors, and all other individuals acting or purporting to act on your behalf, including all present and former members, officers, employees, agents, contractors, and all other individuals exercising or purporting to exercise discretion, make policy, and/or decisions.
29. The term "Department" in the subpoena, the schedule, or the instructions includes but is not limited to the Department of Labor, each of its subsidiaries, divisions, groups, or other entities, and any current or former employee, officer, director, contractor, agent, or other representative of the Department of Labor or any of its subsidiaries, divisions, groups, or other entities.
30. The term "Department of Labor plans" means any plan the Department of Labor submitted to the Office of Management and Budget in response to the email sent by White House Chief of Staff Jeff Zients, as referenced in the Axios article published on January 19, 2024, entitled "Scoop: W.H. demands proof from Cabinet officials on return-to-office."

31. The term “Work Environment Plan” in the subpoena, the schedule, or the instructions refer to the plan the Department of Labor submitted to the Office of Management and Budget (OMB) in accordance with OMB Memorandum M-23-15 entitled “Measuring, Monitoring, and Improving Organizational Performance in the Context of Evolving Agency Work Environments.”
32. The term “Administration” means and refers to any department, agency, division, office, subdivision, entity, official, administrator, employee, attorney, agent, advisor, consultant, staff, or any other person acting on behalf or under the control or direction of the Executive Branch of government.

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