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March 8, 2022

The Honorable Martin J. Walsh
Secretary
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Dear Secretary Walsh:

On April 26, 2021, President Biden signed an executive order establishing a Task Force on Worker Organizing and Empowerment (Task Force) which named you as its vice-chair.¹ On February 7, 2022, the Task Force released a report to the President including its recommendations (Report).² The Report's recommendations appear to satisfy two overriding objectives of the Biden administration: empowering union bosses and expanding the size of the federal government. Not only does the Report represent a waste of both time and taxpayer resources, but also it explicitly instructs government agencies to bias themselves for the benefit of unions. We write to express our concerns about the Report's recommendations and the negative impacts they present for workers and employers, including small businesses, and to request additional information on the activities of the Task Force.

The Report represents another attempt by the Biden administration to alter the implementation of federal labor law. Specifically, it upsets the careful and longstanding balance of the right of labor unions to organize and bargain collectively on behalf of employees, the right of employers to respond to those organizing and bargaining efforts, and the right of employees to choose not to participate in or fund union activity. The Report contains several recommendations that will needlessly complicate federal employment, raise costs and restrictions involving government contacting and grantmaking, and decrease economic opportunities for workers and businesses.

¹ Exec. Order No. 14,025, 86 Fed. Reg. 22829 (Apr. 26, 2021). This oversight letter is directed to you as Secretary of Labor and as Vice-Chair of the Task Force. Please provide comprehensive responses and requested materials in both capacities.

² WHITE HOUSE TASK FORCE ON WORKER ORGANIZING AND EMPOWERMENT, REPORT TO THE PRESIDENT (Feb. 7, 2022), <https://www.whitehouse.gov/wp-content/uploads/2022/02/White-House-Task-Force-on-Worker-Organizing-and-Empowerment-Report.pdf>.

The Report doubles down on the administration's preference for threatening employers and workers with heavy-handed enforcement initiatives. Specifically, it recommends the Department of Labor (DOL) prioritize policies that hinder workers' abilities to choose when, where, and how they work.³ Failing to recognize that many workers want to work as independent contractors, the Report recommends several measures DOL can take to classify independent contractors as employees, thereby subjecting them to union harassment. This Report and DOL's implementation will threaten the flexibility and economic opportunity that independent contractor status provides to millions of workers.

The Report also recommends expanding the use of costly and unnecessary project labor agreements (PLA) on certain federal construction projects.⁴ Government-mandated PLAs reduce competition from small, minority, and other qualified contractors and inflate the cost of federal construction, resulting in fewer construction projects being built.⁵ It is unconscionable that the Biden administration would enact such a harmful policy which rewards special interests and effectively shuts out the 87 percent of construction workers who choose not to belong to a union.⁶

We are further concerned by the Report's recommendations to expose workers to union organizing and harassment while also imposing additional reporting requirements from employers of all sizes. These efforts are reminiscent of the Obama administration's discredited 2016 "Persuader Rule," and will stifle the free speech of employers when talking to workers about the merits of joining a union.⁷ These requirements will also have a chilling effect on attorney-client privilege, leaving small employers without legal recourse or the ability to secure counsel when dealing with immensely complicated labor laws. These recommendations are clearly intended to benefit union leaders and organizers at the expense of workers who will subsequently be less informed about a decision with enormous impact on their livelihoods and families.

In sum, the Task Force's Report is another example of the Biden administration missing an opportunity to support workers. Workers and businesses need more freedom to pursue opportunities for growth. Instead of focusing on the desires of union bosses, the Task Force and DOL should remove regulatory barriers that keep businesses from hiring and workers from making their own decisions. We therefore seek information about the Task Force and the time, attention, and resources it has squandered on the Report. Moreover, we request any information regarding the people and organizations outside of the government who contributed to the Report's recommendations.⁸ Please provide the following information by March 22, 2022:

³ *Id.* at 28-29.

⁴ *Id.* at 33-34, 37-38.

⁵ *See, e.g.*, WILLIAM F. BURKE & DAVID G. TUERCK, THE BEACON HILL INST., THE EFFECTS OF PROJECT LABOR AGREEMENTS ON PUBLIC SCHOOL CONSTRUCTION IN CONNECTICUT (Jan. 2020), <https://beaconhill.org/wp-content/uploads/2020/02/CT-PLA-FinalRev-2020-0211.pdf>.

⁶ U.S. BUREAU OF LAB. STATISTICS, UNION AFFILIATION OF EMPLOYED WAGE AND SALARY WORKERS BY OCCUPATION AND INDUSTRY (Jan. 20, 2022), <https://www.bls.gov/news.release/union2.t03.htm>.

⁷ REPORT TO THE PRESIDENT, *supra* note 2, at 22.

⁸ Exec. Order No. 14,025, *supra* note 1, § 2(f) ("Consistent with the objectives of this order and applicable law, the Task Force may gather relevant information from labor organizations, other worker advocates, academic and other experts, and other entities and persons it identifies that will assist the Task Force in accomplishing the objectives of this order.").

The Honorable Martin J. Walsh

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1. A list of all Task Force meetings—including the dates, meeting minutes, and attendees for each meeting;
2. A list of all meetings and communications with people and organizations held outside of the official Task Force meetings—including the dates and notes taken during such meetings or communications;
3. A list of all people and organizations that contributed policy ideas to the Task Force for consideration;
4. A description of the selection process by which a person or organization was able to take part in the Task Force or the development of the Report;
5. A list of all people and organizations that expressed an interest in contributing to the Task Force or the Report;
6. A list of all ideas that were offered, but not ultimately included, in the Report, including the Task Force's reasoning for not including such ideas;
7. An accounting of all resources used for operating the Task Force and producing the Report—including the amount of funding and the full-time equivalent workers used;⁹ and
8. A cost analysis of how the Report's recommendations will impact the federal budget and the economy if they are adopted.

Thank you for your attention to this matter.

Sincerely,



Virginia Foxx
Ranking Member



Rick W. Allen
Ranking Member
Subcommittee on Health, Employment,
Labor and Pensions

Cc: Vice President Kamala D. Harris

⁹ This inquiry is not limited to resources used by DOL. Please provide comprehensive responses that include an accounting of all resources used by all federal agencies for the work of the Task Force.