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November 23, 2020

The Honorable Emily Murphy
Administrator
General Services Administration
1800 F Street, NW,
Washington, D.C. 20405

Dear Administrator Murphy:

I write to you out of concern that your ongoing refusal to grant the Biden-Harris Transition Team access to the post-election resources required by the Presidential Transition Act of 1963 is severely hampering critical areas of the Committee on Education and Labor's (Committee) interest.¹ Therefore, I ask that you immediately reverse your decision and grant the Biden-Harris Transition Team access to critical services and facilities specified in the Presidential Transition Act and the millions of dollars in funding that Congress appropriated on October 1, 2020, for transition activities under the Act.²

In passing the Presidential Transition Act, Congress explicitly warned: "Any disruption occasioned by the transfer of executive power could produce results detrimental to the safety and well-being of the United States and its people."³ Congress reaffirmed the importance of a timely and orderly transition by passing the Presidential Transition Enhancement Act of 2019 with overwhelming bipartisan support. President Trump signed this bill on March 3, 2020, which expanded the transition resources available to an incoming presidential administration.⁴

¹ 3 U.S.C. § 102 note. Under the Presidential Transition Act, it is your responsibility as Administrator of the General Services Administration to begin transition activities as soon as you ascertain "the apparent successful candidates for the office of President and Vice President." President-elect Biden and Vice President-elect Harris have clearly satisfied any good faith reading of this standard. There is no legitimate path forward for President Trump and therefore no valid legal basis to withhold the ascertainment designation under the Presidential Transition Act.

² Continuing Appropriations Act, 2021, Pub. L. No. 116-159.

³ 3 U.S.C. § 102 note.

⁴ Presidential Transition Enhancement Act of 2019, Pub. L. No. 116-121.

Our country is facing an unprecedented global pandemic that is killing 2,000 Americans per day, and any further delay in an effective government response will have devastating consequences.⁵ As you are surely aware, an effective government response during this time requires an effective transition of government. The disruption caused by your decision to withhold the ascertainment designation under the Presidential Transition Act has been particularly apparent in the areas of this Committee's jurisdiction: health, education, and labor.

In preventing the Biden-Harris Transition Team from accessing comprehensive data from the Department of Health and Human Services, you are compromising the incoming Biden Administration's ability to put in place the necessary policies for testing and treatment of the American public during a pandemic that is raging exponentially out of control. In addition, despite the promising news of several vaccine candidates, the Biden-Harris Transition Team is unable to fully and appropriately continue to plan for a potential vaccine, including vital engagement efforts with local communities, without access to government COVID-19 data.

Your stalled action is also undermining the federal government's ability to adequately respond to the COVID-19 pandemic in the education space. States and communities with high rates of COVID-19 transmission are navigating the physical re-opening some schools and keeping others virtual, all while managing staffing shortages. The Department of Education plays a central role supporting states and school districts with timely resources and guidance as they manage this extremely challenging period. It is essential for the nation's school administrators, teachers, and students that the transition to the incoming Biden Administration is as seamless as possible.

Additionally, the current Administration has suspended all student loan payments through December 31, 2020 due to pandemic-induced economic hardship but has not indicated whether that suspension will continue through the end of President Trump's term. This could result in a turbulent restart and stoppage of the student loan servicing apparatus, which would cost immense taxpayer resources and confuse borrowers. The incoming Biden Administration must have frank conversations with current policymakers and have immediate access to the Department of Education's resources. Without this transfer of information and resources, the Biden Administration will face unnecessary obstacles to ensure the nation's 40 million student loan borrowers obtain appropriate guidance and relief.

The country's workers are also experiencing severe hardship under this pandemic. In order to hit the ground running on protecting the workforce during this pandemic, the Biden-Harris Transition Team must have access to information on the status of a draft COVID-19 Emergency Temporary Standard to protect health care workers, first responders, and other essential workers. The current lack of a COVID-19 Emergency Temporary Standard has already compromised the life and health of workers and done untold damage to the government's ability to tackle the pandemic in the workplace. The continued delay in sharing critical information with the Biden-Harris Transition Team regarding Occupational Safety and Health Administration's (OSHA's)

⁵ *U.S. Returns to Daily Coronavirus Death Toll of Over 2,000 Lives*, U.S. News (Nov. 20, 2020) (online at: <https://www.usnews.com/news/national-news/articles/2020-11-20/us-returns-to-daily-coronavirus-death-toll-of-over-2-000-lives>).

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emergency temporary standard unnecessarily endangers the lives of our workers and causes extensive delay to the reopening of the economy, which is essential for economic recovery.

In addition, the Biden-Harris Transition Team must also have immediate access to information about the impacts to workers from COVID-19 that have been uncovered during government inspections, the resources available to hire additional workplace inspectors to ensure ongoing safety in the workplace, and the status of retaliation cases filed by workers who have stepped up to report safety concerns in the absence of physical OSHA inspections. Your decision to deny access to this and other information will cause a chaotic and ineffective transition that risks allowing the American workforce to become incapacitated by this pandemic.

The urgent needs of the country must not be subordinated to political gamesmanship. As a result of the pandemic, any delay in a peaceful and effective transition will have catastrophic consequences on the safety and well-being of the United States and its people. As Administrator of the General Services Administration, it is your responsibility to follow the law and make the ascertainment designation without any further delay.

Sincerely,



ROBERT C. "BOBBY" SCOTT

Chairman

Cc: The Honorable Virginia Foxx, Ranking Member