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October 11, 2018

The Honorable Alex M. Azar II
Secretary
U.S. Department of Health & Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Azar:

We write to urge the Department of Health and Human Services to return to bargaining, and to do so in good faith, with its employees, who are represented by the National Treasury Employees Union ("NTEU"). As a Committee with oversight over many of the Department's programs, we are concerned by reports that the Department's current failure to collectively bargain with its workers will undermine the Department's ability to effectively administer its programs on behalf of the citizens we serve.¹

We understand that the Department only engaged in one full day of bargaining with its employees' union before requesting a mediator from the Federal Mediation and Conciliation Service on July 10, 2018. On July 31, after only one full day of bargaining with a mediator present, the Department submitted its final offer and declared an impasse. Such moves are irregular and disturbing, because they evidence the Department's eagerness to declare an impasse without actually bargaining in good faith.

The Department filed for assistance from the Federal Services Impasse Panel ("FSIP") on August 13, and we understand that the Department relied on three Executive Orders to justify many of its bargaining positions.² However, the United States District Court for the District of Columbia overturned key portions of these executive orders, including provisions that undermined the duty to bargain in good faith, which is protected by the Federal Service Labor-Management Relations Act.³ The Court's decision and order undermines the Department's


¹ Erich Wagner, "HHS Managers Said to Have Bargained in 'Bad Faith' Over Union Contract That Strips Telework," *Government Executive* (Aug. 10, 2018), <https://www.govexec.com/management/2018/08/hhs-managers-said-have-bargained-bad-faith-over-union-contract-strips-telework/150455/>.

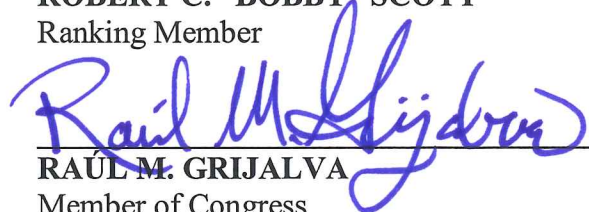
² Executive Order No. 13,836 (May 25, 2018); Executive Order No. 13,837 (May 25, 2018); Executive Order No. 13,839 (May 25, 2018).

³ *AFGE v. Trump*, No. 1:18-cv-1261 (KBJ), 2018 U.S. Dist. LEXIS 144592 (D.D.C. Aug. 25, 2018) ("Certain provisions of the Orders plainly further the President's intention to restrict the scope and effectiveness of federal

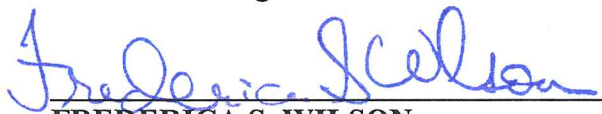
reliance on those flawed orders. Accordingly, we urge the Department to withdraw its request to FSIP, and to engage in good faith bargaining with the NTEU.

Sincerely,



ROBERT C. "BOBBY" SCOTT
Ranking Member


RAÚL M. GRIJALVA
Member of Congress

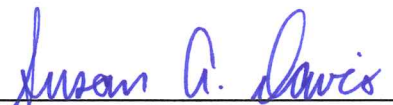

MARCIA L. FUDGE
Member of Congress

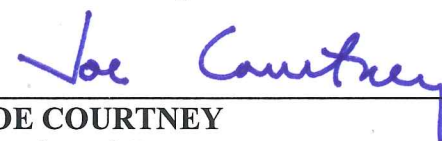

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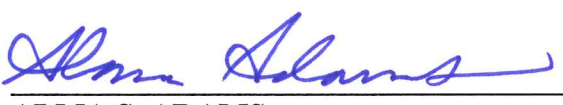

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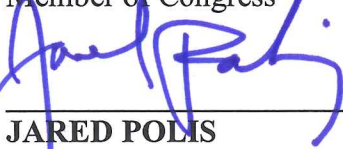

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