

The Honorable Patty Murray
The Honorable Roy Blunt
Senate Subcommittee on Labor, Health and Human Services,
Education and Related Agencies Appropriations
Washington, D.C. 20510

The Honorable Rosa DeLauro
The Honorable Kay Granger
House Subcommittee on Labor, Health and Human Services,
Education and Related Agencies Appropriations
Washington, D.C. 20515

Dear Chair Murray, Ranking Member Blunt, Chair DeLauro, and Ranking Member Granger:

The undersigned organizations submit this letter urging you to provide adequate appropriations for the Solicitor of Labor's office within the Department of Labor for Fiscal Year 2023.

The Department of Labor must pursue vigorous enforcement of the over 200 laws with which it has enforcement responsibility. Within DOL, it is the Solicitor's office (SOL) that is "solely charged" with bringing enforcement actions with respect to these laws and on behalf of DOL's agencies.¹ As stated in the President's proposed budget for FY 2023, "[b]ecause client enforcement agencies have no attorneys or ability to bring litigation matters, SOL participates in the development of all complex investigations even before litigation, enforces every client case that goes to litigation, and works-up all significant and complex settlements."²

Unfortunately, since 2013, the Solicitor's office within DOL has been flat funded³ which in reality means that it has lost funding each year. From a one-time high of 770 staff during the Obama administration, to 724 staff at the start of the previous administration, today, the Solicitor's office only has 645 employees.⁴ Approximately 50 of the current positions are funded from money appropriated in the American Rescue Plan Act and the No Surprises Act, both of which will run out soon.⁵ Though this continually decreased funding has thus far been managed through attrition, if there isn't a substantially higher appropriation this year, it's entirely possible the SOL would have no choice but to further reduce its workforce, furlough individuals, or take other steps to radically reduce its costs. This would be catastrophic for DOL. Indeed, the funding patterns for the Solicitor's office are already calamitous.

The SOL is only able to achieve robust settlements when it can offer a genuine threat of litigation to back up its negotiating efforts. In its current state, the SOL is hampered by thin staffing, and often has to settle cases for far less than they are worth because they cannot take an adequate number of cases to litigation. Similarly, in large or noteworthy investigations, the SOL can often be brought in on the front end of investigations to help shape them with an eye toward successful negotiation and

¹ <https://www.dol.gov/sites/dolgov/files/general/budget/2023/CBJ-2023-V3-02.pdf>, page 35.

² Id. at 33.

³ Id. at 37.

⁴ Id. at 34-35.

⁵ Id. at 37.

litigation, but they aren't able to provide that help in nearly enough cases at present time. Quite simply, the SOL does not have the resources to make sure that workers get the relief they really deserve. As aptly stated in the President's budget, "[w]ithout adequate funding of SOL, DOL becomes nothing more than a paper tiger – without real teeth to our enforcement efforts."⁶

As a result of this real decrease in funding, the Solicitor's enforcement efforts are down by 65% since 2012.⁷ It is all well and good to talk about appropriating more money to agencies like the Wage and Hour Division and OSHA so they can do increased enforcement. But their ability to rigorously enforce the laws with which they are charged is directly dependent on the ability of the Solicitor's office to adequately resource their efforts.

Ideally, the ratio of attorneys to investigators across DOL should be about 1/7, but the average ration is 1/21.⁸ As described in the President's budget,⁹ the SOL has many responsibilities, many of which are rigid and mandatory. Unfortunately, one of the few places where it has some elasticity is in how many cases it litigates, thus, the staggering decrease in enforcement actions over the past decade.

The President's budget request would begin the process of restoring potency to the Solicitor's office, bringing its staffing back up to 740 FTE, with 39 of the new hires devoted exclusively to providing DOL agencies with legal support needed to do adequate enforcement.¹⁰ It is imperative that Congress appropriate these funds to the SOL.

Thank you for your attention to this matter.

Sincerely,

A Better Balance
AFL-CIO
American Federation of Teachers
Asian Pacific American Labor Alliance, AFL-CIO
Catholic Migration Services
Center for Law and Social Policy (CLASP)
Center for Worker Justice of Eastern Iowa
Centro de los Derechos del Migrante, Inc.
Civic Ventures
Coalition of Labor Union Women
Coalition on Human Needs
Colorado AFL-CIO
Colorado Fiscal Institute
Colorado Jobs with Justice

⁶ Id. at 35.

⁷ Id.

⁸ Id.

⁹ Id. at 33-34.

¹⁰ Id. at 34.

Common Good Iowa
Community Legal Services, Philadelphia
Economic Policy Institute
Endangered Species Coalition
Equal Justice Center
Farmworker Justice
Fish Potter Bolanos PC
Florida Institute for Community Studies
Government Accountability Project
Instituto de Educacion Popular del Sur de California (IDEPSCA)
Jobs With Justice
Justice at Work
Justice in Motion
Kentucky Equal Justice Center
Los Angeles Alliance for a New Economy (LAANE)
Long Beach Alliance for Clean Energy
Louisiana Budget Project
Main Street Alliance
Missouri Budget Project
Missouri Jobs with Justice
National Council for Occupational Safety and Health
National Domestic Workers Alliance
National Employment Law Project
National Employment Lawyers Association
National Immigration Law Center
National Organization for Women
National Partnership for Women & Families
National Women's Law Center
National Center for Law and Economic Justice
North Carolina Justice Center
Northwest Workers' Justice Project
One Fair Wage
People's Parity Project
Policy Matters Ohio
Pride at Work
ROC United
Santa Clara County Wage Theft Coalition
Service Employees International Union
Shriver Center on Poverty Law
Unemployment Law Project
Women's Law Project
Workers Defense Action Fund
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