

United States Senate

WASHINGTON, DC 20510

December 15, 2016

The Honorable Carolyn N. Lerner
Special Counsel
U.S. Office of Special Counsel
1730 M Street, N.W., Suite 218
Washington, D.C. 20036

Dear Special Counsel Lerner:

It has come to our attention that President-elect Donald J. Trump's transition officials have asked the Department of Energy through a questionnaire for a list of the individual personnel who have worked on certain climate change policies, as well as for lists of the publications and associations of scientists at the National Laboratories. These requests appear to have violated long-standing federal laws designed to protect civil servants against coercion for partisan purposes. We ask that you take immediate action to review these deeply troubling requests.

The questionnaire, which may be just one of many such documents, required the Department to "...provide a list of all Department of Energy employees or contractors who have attended any Interagency Working Group on the Social Cost of Carbon meetings" as well as a list of "Department employees or contractors who attended any of the Conference of the Parties (under the UNFCCC) in the last five years." Another question demands "a list of the top twenty salaried employees" at National Laboratories. Taken together, these questions seem to demonstrate a clear intent to retaliate or discriminate against federal employees.

Through the Civil Service Reform Act of 1978 (CSRA), Congress established that federal personnel management should be conducted consistent with merit system principles, which are codified in section 2301 of Title V. This section establishes that employees should be protected against coercion for partisan political purposes. Officials who violate this law are subject to disciplinary action. The CSRA also created the independent U.S. Office of the Special Counsel to safeguard the merit system by protecting federal employees from prohibited personnel practices. The primary basis for a personnel practice to be considered prohibited is the motivations behind it. As stated in the Senate's CSRA report, a "prohibited personnel practice is a personnel action which is taken for a prohibited purpose." We are alarmed by the requests in the Energy Department questionnaire because they strongly appear to be motivated by partisan political purposes, which are forbidden by the Act and are therefore impermissible actions by transition officials.

We urge you to investigate whether this questionnaire, or any similar questionnaire being circulated by transition officials, violates federal law and to hold accountable those responsible. In your investigation, we ask you to take a close look at the motives of the transition officials in singling-out federal employees for implementing our nation's climate change policies. We also ask that you publicly communicate to Congress clear guidance on the circumstances under which the Office of Special Counsel will investigate instances of retaliation or discrimination against career civil servants for implementing the policies of any previous administration.

Given the seriousness and urgency of this matter, we ask that you provide a response to this letter no later than December 23, 2016. We thank you for your dedication to public service and to the career civil servants who, on a daily basis, apply their skills and energy on behalf of our country.



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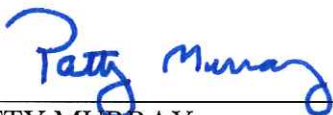
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