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April 3, 2019

The Honorable R. Alexander Acosta  
Secretary  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Washington, D.C. 20210

Dear Secretary Acosta:

I write to request information concerning the Department of Labor's (DOL) recent rulemaking activities. To better understand the steps taken by DOL in its 2017 *Notice of Proposed Rulemaking Regarding Tip Regulations Under the Fair Labor Standards Act*<sup>1</sup>, 2018 *Notice of Proposed Rulemaking Expanding Employment, Training, and Apprenticeship Opportunities for 16- and 17-Year-Olds in Health Care Occupations Under the Fair Labor Standards Act*<sup>2</sup>, and 2019 *Notice of Proposed Rulemaking Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees*<sup>3</sup>, please provide the following for each of the three proposed rules:

1. A copy of the economic assessment of whether the proposed rule is a "significant regulatory action" pursuant to Executive Order 12866, including whether the rule will have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities. Please include all documents prepared by the DOL or contractors retained by the DOL to carry out these assessments.
2. A copy of the proposed rule as it was sent to the Office of Management and Budget (OMB), including any substantive changes between the draft submitted to OMB for review and any subsequent versions of the draft.<sup>4</sup> Please identify those changes made at the suggestion or recommendation of OMB as well as the sources of those changes.

<sup>1</sup> 82 Fed. Reg. 57,395 (Dec. 5, 2017) (to be codified at 29 C.F.R. pt. 531).

<sup>2</sup> 83 Fed. Reg. 48,737 (Sep. 27, 2018) (to be codified at 29 C.F.R. pt. 570).

<sup>3</sup> 84 Fed. Reg. 10,900 (Mar. 22, 2019) (to be codified at 29 C.F.R. pt. 541).

<sup>4</sup> Exec. Order No. 12866, 58 Fed. Reg. 190, Sec. 6(a)(3)(E) (Oct. 4, 1993).

3. Copies of any communications between OMB and the DOL regarding different versions of the draft rules.
4. A summary and analysis of the comments received in response to each of the three proposed rules.

For each proposed rule specified below, please provide:

1. For the 2017 *Notice of Proposed Rulemaking Regarding Tip Regulations Under the Fair Labor Standards Act* that was deemed a “significant regulatory action” pursuant to Executive Order 12866, copies of any and all assessments of the costs and benefits of the proposed regulatory action, including both quantified and un-quantified assessments. Please include the assessment that the rule will not have an annual effect on the economy of \$100 million or more as well as an explanation of the manner in which the regulatory action is consistent with a statutory mandate and avoids undue interference with state, local, and tribal governments in the exercise of their governmental functions.<sup>5</sup>
2. For the 2019 *Notice of Proposed Rulemaking Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees* that was deemed a “significant regulatory action” pursuant to Executive Order 12866, copies of any and all assessments of the costs and benefits of the proposed regulatory action, including both quantified and un-quantified assessments. Please include the assessment that the rule will have an annual effect on the economy of \$100 million or more as well as an explanation of the manner in which the regulatory action is consistent with a statutory mandate and avoids undue interference with state, local, and tribal governments in the exercise of their governmental functions.<sup>6</sup>
3. For the 2018 *Notice of Proposed Rulemaking Expanding Employment, Training, and Apprenticeship Opportunities for 16- and 17-Year-Olds in Health Care Occupations Under the Fair Labor Standards Act* Rule, a copy of the DOL’s “no impact” certification as well as any other related documents and analyses that the Regulatory Flexibility Act (RFA) does not apply to the rule.<sup>7</sup>
4. For the 2017 *Notice of Proposed Rulemaking Regarding Tip Regulations Under the Fair Labor Standards Act* and the 2019 *Notice of Proposed Rulemaking Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees*, any related documents and analyses to the published initial regulatory flexibility analyses (IRFA).<sup>8</sup>

Please provide the DOL’s response to the above requests by April 17, 2019.

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<sup>5</sup> Exec. Order No. 12,866, 58 Fed. Reg. 51,735 (Oct. 4, 1993).

<sup>6</sup> *Id.*

<sup>7</sup> Regulatory Flexibility Act, Pub. L. 104-121, Sec. 605(b) (1996).

<sup>8</sup> *Id.* at Sec. 603.

The Honorable R. Alexander Acosta

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If you have any questions, please contact Cathy Yu at (202) 225-9721 or [cathy.yu@mail.house.gov](mailto:cathy.yu@mail.house.gov). Please direct all official correspondence to the Committee's Chief Clerk at [Tylease.Alli@mail.house.gov](mailto:Tylease.Alli@mail.house.gov). Thank you for your attention to this matter, and I look forward to your response.

Sincerely,



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**ROBERT C. "BOBBY" SCOTT**

Chairman