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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

August 23, 2013

**VIA ELECTRONIC TRANSMISSION**

The Honorable Alejandro Mayorkas  
Director  
U.S. Citizenship and Immigration Services  
111 Massachusetts Ave NW  
Washington, DC 20529

Dear Director Mayorkas:

I have received your letter of August 20, 2013. However, you failed to answer questions in my letters of July 18, 2013; July 23, 2013; July 24, 2013; July 31, 2013; and August 9, 2013. Although you enclosed your August 2, 2013, responses to the Questions for the Record (QFRs) from three members of the Committee on Homeland Security and Governmental Affairs, those responses do not answer the specific questions posed in my letters. Nor do your responses address “the bulk of these concerns” as claimed in your August 20 letter. Of the 36 questions I have asked you, your responses only relate to seven of the questions.<sup>1</sup>

The QFR responses appear to contradict information you initially gave the Homeland Security and Governmental Affairs Committee on July 25, 2013. You were asked at that hearing by Chairman Carper:

CARPER: [C]ould you just share with us any communication you had with Mr. McAuliffe with respect to the effort to create one center in Virginia or maybe one on the Gulf Coast? Any meetings you had with him, any telephone conversations that you recall?

MAYORKAS: Thank you very much, Mr. Chairman. I was asked to attend a meeting with Mr. McAuliffe so that I could hear in person

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<sup>1</sup> The following questions are still pending: Questions 1-9 from my July 18 letter; questions 5, 7-8 from my July 23 letter; questions 1-7 from my July 24 letter; questions 1-9 from my July 31 letter; and question 1 from my August 9 letter.

his complaints. . . . I heard those complaints, and that was the extent of the interaction.<sup>2</sup>

In my letter of July 31, 2013, I already pointed to email evidence contrary to the impression you left in your answer that your involvement was minimal. The emails indicated that you had several other interactions with representatives of Mr. McAuliffe, GreenTech, and Gulf Coast that you failed to disclose.

However, in your QFR responses, you disclosed several additional direct contacts with Mr. McAuliffe that you also failed to disclose in the hearing:

A few years ago – I do not recall when – DHS Headquarters requested that I meet with GreenTech representatives to hear in person their concerns about USCIS adjudication delays. I traveled to DHS Headquarters for that purpose and heard the representatives' concerns. Mr. McAuliffe was present and also expressed those concerns. The meeting was, to the best of my recollection, less than 30 minutes. In the ensuing years, up to and including 2013, Mr. McAuliffe has called my office on a few occasions to complain about USCIS adjudication delays. I recall one voice message of his in particular and I recall one instance in which he complained to me directly. I remember that on these occasions Mr. McAuliffe was clearly dissatisfied with our agency's delays in the Gulf Coast case. In early 2013, Mr. McAuliffe walked past me in a crowd, said something like, "Your agency is killing the project," and kept walking.<sup>3</sup>

This QFR response is in direct contradiction with your hearing testimony, in which you stated that one sole meeting with Mr. McAuliffe was the "extent of the interaction." It is especially troubling in light of the fact that you have yet to explain how the longer pattern of interactions with other representatives of Gulf Coast and GreenTech was consistent with your initial testimony.

Your contact with Mr. McAuliffe is not the only subject on which you appear to have changed your story. Both in your confirmation hearing as well as in a letter to me the night of the hearing, you repeatedly claimed that you were *only* involved in cases

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<sup>2</sup> Testimony of Alejandro Mayorkas before the Senate Committee on Homeland Security and Governmental Affairs, July 25, 2013 (hereinafter HSGAC testimony), at 23.

<sup>3</sup> Responses from Alejandro Mayorkas to Questions for the Record, Senate Committee on Homeland Security and Governmental Affairs, Aug. 2, 2013 (hereinafter QFR responses), at 29.

that raised novel issues of law or policy.<sup>4</sup> This contradicted what you had previously told my staff, which was that you were *never* involved in individual cases. However, after my July 24 and July 31, 2013 letters inquiring about your involvement in two individual cases where petitioners were requesting expedited treatment, your QFR response of August 2 admitted that, in contrast to your previous testimony, you are personally involved in a much broader range of cases:

As a general matter, I get involved when a significant problem the agency is confronting comes to my attention. The problems that have triggered my involvement have been, and continue to be, extraordinarily varied. I have become involved, for example, in cases that raise questions about our agency's performance, involve difficult questions of law, or present a policy approach that needs to be further considered; cases that raise questions of the effectiveness or efficiency of our processes; or, cases that raise questions whether we understand the business, family, or humanitarian realities that our work is designed to address. My involvement varies according to the nature of the issue that I am addressing and the manner in which it comes to my attention. I can, for example, meet repeatedly on a matter and discuss it intensely with my staff, become involved in a difficult case and dissect it, communicate with counsel on a case and discuss the issues with my staff, immerse myself in the law and relevant agency pronouncements, speak with outside experts and members of the private sector who experience the issues at hand from a different perspective, or engage with individuals, groups, associations, and large crowds. The intensity of my involvement and the duration of my involvement depend on the matter I am addressing and the focus and time the resolution requires. I work collaboratively with my staff to reach the outcome that best serves the law and our agency's responsibilities.<sup>5</sup>

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<sup>4</sup> “[N]ovel issues of law and policy that challenge the agency . . . percolate up through the supervisory chain to me . . . . I become involved in those complex, difficult legal policy issues when they are raised to my attention . . . . I address legal policy issues that are brought to my attention through the channels I have outlined.” HSGAC testimony, at 9. “What I did was sit around the table with colleagues, as is consistently my practice when indeed difficult legal or policy issues rise to my level.” HSGAC testimony, at 10. “[W]hen I get involved in complex legal policy issues or novel questions before us, what we seek to do is resolve them for the benefit of the agency as a whole . . . .” HSGAC testimony, at 14. “I looked into that, consistent with the principles to which I referred at the outset of this hearing: when something speaks of a difficult legal or policy challenge that the agency confronts.” HSGAC testimony, at 22. “I have engaged with the agency’s personnel when . . . novel or difficult legal or policy questions have arisen . . . . On countless occasions, cases presenting such novel or complex legal or policy questions have been brought to my attention . . . . Throughout my tenure, I have participated in the resolution of legal and policy issues . . . .” Letter from Alejandro Mayorkas to Charles Grassley (Jul. 25, 2013), at 1.

<sup>5</sup> QFR responses, at 23.

It is disturbing that you were not thorough and candid in your confirmation hearing testimony, rather than attempting to minimize the extent of your contacts with Mr. McAuliffe and the frequency with which you intervene in individual cases. It should not have taken the release of multiple e-mails contradicting your testimony for you to come clean and acknowledge your level of involvement in cases where politically-connected advocates were contacting you.

I still expect to receive complete responses as soon as possible to each question from each of my previous letters, including the date of your meeting with Mr. McAuliffe and a list of all attendees. Should you have any questions regarding this letter, please contact [REDACTED] my staff at (202) 224-5225. I look forward to receiving your answers to my questions.

Sincerely,



Charles E. Grassley  
Ranking Member  
Committee on the Judiciary

cc: The Honorable Thomas Carper, Chairman  
U.S. Senate, Committee on Homeland Security and Governmental Affairs

The Honorable Tom A. Coburn, Ranking Member  
U.S. Senate, Committee on Homeland Security and Governmental Affairs

Charles K. Edwards, Deputy Inspector General  
U.S. Department of Homeland Security