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ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6115

Majority (202) 225-3641

Minority (202) 225-2927

May 26, 2023

The Honorable Xavier Becerra
Secretary
Department of Health and Human Services
200 Independence Ave., SW
Washington, D.C. 20201

Dear Secretary Becerra:

We write to invite you to testify at a hearing before the Committee on Energy and Commerce's Subcommittee on Oversight and Investigations (the Subcommittee). At a budget hearing before the Subcommittee on Health you testified that you were willing to appear before the Subcommittee on Oversight and Investigations:

Mr. Griffith: When the Oversight and Investigations Subcommittee holds a hearing on ORR to address our questions and our concerns and looking for answers, are you willing to come to the subcommittee to testify, yes or no?

Sec. Becerra: Absolutely. Absolutely.

Mr. Griffith: Thank you very much.

Sec. Becerra: Hopefully we can work out a good time. Just make sure I am available.¹

¹ *Fiscal Year 2024 Department of Health and Human Services Budget: Hearing Before the H. Comm. on Energy & Commerce*, 118th Cong. (Mar. 29, 2023) (statement of Xavier Becerra, Secretary, Dep't of Health & Human Services) (transcript on file with Committee). Full hearing video available at <https://www.youtube.com/watch?v=XQIcTGDxnis>.

Since April 22, 2023, the Subcommittee has been working in good faith with your staff to find a mutually agreeable date for you to testify at a hearing before the Committee. The Subcommittee originally sought to have you testify in May, but your staff indicated that you were traveling throughout the month of May and would not be available. In response, the Subcommittee agreed to postpone your appearance until June.

Before a staff call on May 17, 2023, the Subcommittee was cautiously optimistic that your testimony in the budget hearing² coupled with the scheduling accommodations offered would result in a mutually agreeable hearing date. However, following the May 17 call, the Subcommittee is questioning whether you ever had any intention of voluntarily appearing to testify. On that call, your staff, for the first time during these negotiations, signaled that your position is now that it is inappropriate for a Cabinet Secretary to appear before the Subcommittee and, therefore, you will not voluntarily appear, regardless of the scope of the hearing.

The Subcommittee sought to accommodate this change in position by offering the opportunity for you to appear before the full, 52-Member Committee on Energy and Commerce. Your staff declined this accommodation and instead adopted the position that the Committee must first have a hearing with the Assistant Secretary for Children and Families before you will consider voluntarily testifying. This is not how the constitutionally mandated oversight process functions. The Committee gets to determine which witnesses it wishes to have testify.

The Committee's final accommodation is this invitation to appear at a hearing examining HHS's role in the crisis at the southern border before the Subcommittee on Oversight and Investigations. The hearing can be held at 2:00 pm on June 13 or June 14, 2023.

Please inform the Committee in writing no later than Wednesday, May 31, 2023, which of the above dates you are available to appear. In the event you do not select either of the above dates, the Committee will be forced to consider other avenues to secure testimony from you that is needed to fulfill our constitutional mandate to oversee the administration of these programs. Should you force the Committee to compel your attendance, you will be asked on the record formally to correct your testimony from the March 29, 2023, Subcommittee hearing.

If you have any questions, please contact the Oversight and Investigations Majority staff at (202) 225-3641. Thank you for your attention to this request.

² False statements to the legislative branch are a violation of 18 U.S.C. §1001(a)(2) and are punishable by a fine or imprisonment for up to 5 years.

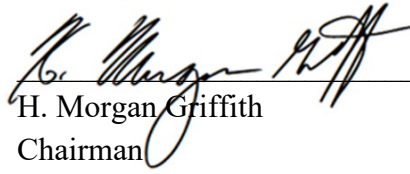
Sincerely,

A handwritten signature in blue ink, reading "Cathy McMorris Rodgers", written over a horizontal line.

Cathy McMorris Rodgers

Chair

House Committee on Energy and Commerce

A handwritten signature in black ink, reading "H. Morgan Griffith", written over a horizontal line.

H. Morgan Griffith

Chairman

Subcommittee on Oversight and
Investigations