July 1, 2022

APA Justice Task Force
P.O. Box 257
McLean, VA  22101-0257

To the members of the APA Justice Task Force:

On behalf of Secretary Raimondo and the Department of Commerce, I would like to thank you for your letter concerning the Department’s Investigations and Threat Management Service (“ITMS”). I, the Secretary, and the Department share your commitment to preventing “profiling and unjustifiable scrutiny” of employees based on the race, ethnicity, or other improper bases. Because of ongoing litigation, the Department is not able to comment on certain specific matters raised in your letter. I would, however, like to share some of the steps we are taking to ensure our employees are treated in a fair and non-discriminatory manner.

The Department vigorously supports Diversity, Equity, Inclusion and Accessibility (DEIA) and has made it a priority in our work. In September 2021, the Department established an executive-level DEIA/Equity Council, which I chair. This Council is charged with ensuring DEIA/Equity is elevated, prioritized, and measured across the Department. DEIA/Equity is also highlighted in the Department’s new Strategic Plan for FY 2022-2026, which was issued in early April. In addition, the Department recently publicly released the Commerce Equity Action Plan, which describes our efforts to incorporate equity into our mission. Equally exciting, the Department submitted its DEIA Strategic Plan to the Office of Personnel Management in early April. The DEIA Strategic Plan is comprehensive and outlines several exciting strategies that will positively impact our workforce. Lastly, to demonstrate our commitment to DEIA/Equity, the Department hired a Chief Diversity Officer at the Senior Executive level, who, along with the DEIA/Equity Council, will help guide our DEIA/Equity efforts. These are just some of the ways in which we are making real our commitment to a diverse, equitable, inclusive, and accessible workplace, free from discrimination.

We are also implementing the recommendations of the Report of the Programmatic Review of the Investigations and Threat Management Service (ITMS). The report findings and recommendations have been accepted by the Secretary and me.

The Department has already completed the work of eliminating ITMS and discontinuing its former law enforcement function. All open ITMS cases have been closed. Records retention laws require the Department to maintain ITMS’s files; however, the Department has placed notices in those files to ensure that that information cannot be used in the future unless the
Department independently confirms the information in the file was lawfully obtained and is relevant, accurate, and fit for the intended use. Further, the Department is updating policy and operational documents to make clear that any matter that may need law enforcement or counterintelligence intervention must be referred to the appropriate agencies with appropriate legal authority.

The report also makes clear that the Department should establish updated policies and enhanced oversight frameworks for its administrative security investigations and insider risk management activities to ensure that adequate safeguards exist to comply with all applicable laws and protect Department employees’ civil rights and liberties. The Department is revising organizational documents to this end and is developing a new Insider Risk Management Program that will be guided by a Governance Board to protect employee civil rights and safety. The Governance Board will have members with civil rights and privacy expertise to ensure that appropriate safeguards against racial or ethnic profiling or other abuses will be in place. The Deputy Assistant Secretary for Intelligence and Security is working with the Office of Civil Rights to ensure effective governance for this program and to identify the right training practices.

Accountability includes ensuring whistleblowers know their rights and do not face retaliation. The Department has steadfastly adhered to those principles throughout the review and wind down of ITMS. The Department’s Office of Inspector General (OIG) also maintains a robust whistleblower protection program, and the Department encourages any employee who believes that they have been subjected to whistleblower retaliation to immediately contact the OIG.

Thank you for your commitment to the values of fair treatment for all. Should you have any questions on this matter, please contact the Department’s Director of Public Engagement, Laura O’Neill, at LO’Neill@doc.gov.

Sincerely,

Don Graves