



# AMERICANS FOR LIMITED GOVERNMENT

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October 28, 2009

The Honorable Hilda Solis  
Secretary of Labor  
200 Constitution Ave, NW  
Washington, DC 20210

**RE: Deputy Assistant Secretary Dr. John Lund and the Requirements of  
Executive Order 13490**

Dear Madam Secretary:

I write today to bring an important matter to your attention regarding the actions of the Office of Labor-Management Standards and its head, Dr. John Lund, Deputy Assistant Secretary for Labor-Management Programs.

As you are aware one of the first actions taken by President Obama was to issue Executive Order 13490. As will be explained below the past work of Dr. Lund severely limits the matters that he can work on in his current position without violating Executive Order 13490. However, it appears that he and the Department are ignoring this Executive Order.

**Requirements of Executive Order 13490**

On January 21, 2009, President Obama issued Executive Order 13490.<sup>1</sup> The Executive Order sets forth mandatory requirements for the Executive Agencies and Departments as well as the appointed personnel hired to work therein. Section 1 of the Executive Order requires every "appointee in every executive agency appointed on or after January 20, 2009" to sign a pledge that among other things:

I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my **former employer or former clients, including regulations** and contracts." (Emphasis added.)

**Dr. Lund's Labor Organization Client**

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<sup>1</sup> 74 Fed. Reg. 4673, January 26, 2009.

The American Federation of Labor-Congress of International Organizations (AFL-CIO) is a labor organization pursuant to the Labor Management Reporting and Disclosure Act of 1959, 29 U.S.C. § 401 *et seq.* As a labor organization with annual receipts in excess of \$250,000 the AFL-CIO is required by 29 C.F.R. § 403.2 *et seq.* to file its annual report on the Form LM-2. This report is filed with the Department's Office of Labor-Management Standards (OLMS). The AFL-CIO has been designated the file number 000-106 by OLMS for purposes of filing the Form LM-2.

The Form LM-2 filed by the AFL-CIO on September 28, 2009, indicates that in their 2008 fiscal year they disbursed at least \$6,250 to Dr. Lund. This disbursement occurred on July 22, 2008. There may be other labor organizations that disbursed funds to Dr. Lund, but given the limitations of the Form LM-2's itemization threshold of \$5,000 for disbursements it is unknown whether any other labor organizations recently made disbursements smaller than \$5,000 to him and as such were not publicly reported. However, at the very least, the payment from the AFL-CIO indicates that they were a client of Dr. Lund during 2008.

#### **Application of Executive Order 13490 Requirements to Dr. Lund**

Dr. Lund became the Deputy Assistant Secretary for Labor-Management Programs on July 1, 2009.<sup>2</sup> This is a politically appointed position within the non-career Senior Executive Service (SES). Non-career SES positions are covered by the requirements of Executive Order 13490 as they fall within the definition of "Appointee" as found in Section 2(b) of the Order. The relevant part of that section states as follows:

"Appointee" shall include every full-time, non-career Presidential or Vice-Presidential appointee, **non-career appointee in the Senior Executive Service.** (Emphasis added.)

As discussed above, Dr. Lund previously had the AFL-CIO and possibly other labor organizations as clients. In addition to the work performed for the AFL-CIO for which Dr. Lund received the payment referenced above, Dr. Lund as recently as July of last year submitted comments lobbying the Department's on its regulatory actions on the Form LM-2.

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<sup>2</sup> Dr. Lund's biography on the website of the University of Wisconsin-Extension School for Workers indicates that he is on a one year leave of absence until June 30, 2010. See: <http://schoolforworkers.uwex.edu/JohnLund.cfm>. (Accessed October 28, 2009.)

While there is a provision allowing for a waiver of the provisions of Executive Order 13490, Dr. Lund is not among the list of persons granted such a waiver.<sup>3</sup> As such he is subject to the requirements of Executive Order 13490.

Based on the foregoing Dr. Lund is prohibited until July 1, 2011, by Executive Order 13490, from working on any regulatory matters affecting the AFL-CIO, including but not limited to the following:

1. Any regulatory changes to the Form LM-2;
2. Any regulatory changes to the Form T-1;
3. Any regulatory changes to the Form LM-20;
4. Any regulatory changes to the Form LM-21;
5. Any regulatory changes to the Form LM-30; and
6. Any decisions regarding enforcement actions on any of the above listed forms.

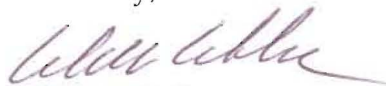
Each of these regulatory matters substantially and directly affects the AFL-CIO.

Furthermore, Dr. Lund is prohibited from participating in any way in the Department's actions defending the Form LM-30 in *AFL-CIO v. Solis*, No. 1:08-cv-00069 (D.D.C. 2008), or any other cases involving the AFL-CIO.

Based on Dr. Lund's recent action on October 7, 2009, in signing a Final Rule making changes to the Form LM-2 and the Form LM-3, it would appear that he is in direct violation of Executive Order 13490.<sup>4</sup> I bring this matter to your attention so that you can take swift corrective action to ensure that the mandatory requirements of Executive Order 13490 are fully complied with by the Department. In order to prevent further violations of Executive Order 13490 Dr. Lund should be removed from any work on, and all decisions involving matters in the categories listed above.

Thank you in advance for your prompt attention to this important matter.

Sincerely,



William Wilson  
President

CC: Dr. John Lund, Deputy Assistant Secretary  
for Labor-Management Programs

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<sup>3</sup> Norm Eisen, Special Counsel to the President for Ethics and Government Reform, *An Update on Waivers*, The White House Blog, September 4, 2009. Available online at: <http://www.whitehouse.gov/blog/An-Update-on-Waivers>. (Accessed October 28, 2009.)

<sup>4</sup> 74 Fed. Reg. 52401, October 13, 2009.