

Congress of the United States

House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

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April 14, 2021

The Honorable Shalanda Young
Acting Director
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Dear Acting Director Young:

As members of the House Committee on Science, Space, and Technology, we write to seek more information about the Biden Administration's efforts and plans to secure our country's bulk-power system.

On May 1, 2020, President Trump issued Executive Order 13920 (EO 13920) to counter the threat to the United States bulk-power system posed by an unrestricted supply of foreign bulk-power system electric equipment and by foreign adversaries.¹ EO 13920 prohibited transactions of bulk-power system electric equipment in which any foreign country or foreign national has an interest; that involve equipment designed, developed, manufactured, or supplied by a foreign adversary; and that pose an undue risk to the bulk-power system, national security, the economy, or critical infrastructure.² EO 13920 also granted the Secretary of Energy the authority to implement rules and regulations to execute this order and required the Secretary to consult with other Federal officials in identifying bulk-power electric equipment that posed such risks and develop recommendations to mitigate this threat.³

The Department of Energy (DOE) has undertaken efforts to implement EO 13920. In developing regulations as required, DOE issued on July 8, 2020, a request for information to solicit public input on existing practices to identify and mitigate threats to the supply chain for bulk-power system components.⁴ Additionally, on December 17, 2020, the Secretary signed an order prohibiting utilities providing a specified volume of electric service to critical defense facilities from acquiring, importing, transferring, or installing certain bulk-power system equipment from the People's Republic of China.⁵

¹ Exec. Order No. 13920, 85 Fed. Reg. 26,595 (May 4, 2020).

² *Id.* § 1.

³ *Id.* § 2.

⁴ Securing the United States Bulk Power System, 85 Fed. Reg. 41,023 (July 8, 2020).

⁵ Prohibition Order Securing Critical Defense Facilities, 86 Fed. Reg. 533 (Jan. 6, 2021).

On January 20, 2021, President Biden issued Executive Order 13990 (EO 13990), which, among other things, suspended EO 13920 for 90 days.⁶ EO 13990 directed the Secretary and the Director of the Office of Management and Budget (OMB) to “jointly consider whether to recommend that a replacement order be issued.”⁷

Following EO 13920’s suspension, on February 9, 2021, DOE posted an update to its website.⁸ It announced that utilities required to file the specified certifications under the December 2020 prohibition order would no longer be required to do so.⁹ The website stated, “During this time, the [Secretary] and the [Director] will jointly consider whether to recommend that a replacement order be issued. In furtherance of mitigating threats, [DOE] will continue its engagements with utilities on energy security issues during the suspension of EO 13920.”¹⁰ DOE also stated it would “expect” responsible utilities to refrain from installing equipment as prohibited in the December 2020 prohibition order and “requested” that these utilities “designate critical defense facilities as a priority load in the applicable system load shedding and restoration plans.”¹¹ Regarding actions moving forward, DOE stated that it “may evaluate all related implementation actions underway and, with OMB, will consider whether to recommend replacement of [EO] 13920” and was reviewing comments provided in the July 2020 request for information.¹²

Threats to our nation’s electric grid and bulk-power system, including from foreign adversaries, not only persist but continue to evolve. The recent SolarWinds breach,¹³ for example, reinforces the urgency of securing our critical infrastructure from cyberattack. The catastrophic February 2021 winter storm that struck Texas and the Midwest illustrates the tragic consequences of disruption of our electric grid.¹⁴ At a recent Committee hearing on those blackouts, testimony from Juan Torres, Associated Laboratory Director for Energy Systems Integration at the National Renewable Energy Laboratory, highlighted the threat to system resilience from “the loss in control and knowledge of the technology supply chain.”¹⁵ In response to Representative Bill Posey’s question on this statement, he further elaborated on the global nature of the grid component market and the importance of knowing the origin of that equipment. He stated, “if the power grid entirely blacks out, it could take days to weeks, may be

⁶ Exec. Order No. 13990, 86 Fed. Reg. 7037 (Jan 25, 2021).

⁷ *Id.* § 7(c).

⁸ *Securing the United States Bulk Power System Executive Order*, U.S. DEP’T OF ENERGY (Feb. 9, 2021), <https://www.energy.gov/oe/bulkpowersystemexecutiveorder#:~:text=On%20May%201%2C%202020%2C%20former,secure%20America's%20Bulk%2DPower%20System> (last visited Apr. 2, 2021).

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *E.g., SolarWinds Hack Was “Largest and Most Sophisticated Attack Ever”*: Microsoft President, REUTERS (Feb. 14, 2021), <https://www.reuters.com/article/us-cyber-solarwinds-microsoft-idUSKBN2AF03R>.

¹⁴ *E.g., Texas Death Toll from February’s Winter Storm and Power Outages Surpasses 100*, ABC 13 HOUS. (Mar. 25, 2021), <https://abc13.com/texas-winter-storm-deaths-death-toll-now-111-more-than-100-people-died-in-freezing-temperatures-2021/10448384/>.

¹⁵ *Lessons Learned from the Texas Blackouts: Research Needs for a Secure and Resilient Grid: Hearing Before the H. Comm. on Science, Space, and Tech.*, 117th Cong. (2021) (statement of Juan Torres, Associated Laboratory Director for Energy Systems Integration, National Renewable Energy Laboratory).

even longer, to restart the large part of the grid,” and as a result, “we have to be fully aware and confident in everything that’s in the grid when we’re restarting it.”¹⁶ As part of this discussion, Representative Posey asked Mr. Torres for more information about the status of EO 13920. Mr. Torres confirmed that he was familiar with EO 13920 but stated he did not know if the current Administration planned to reinstate it.¹⁷

Additionally, performing a review on such a critical issue before key officials at both DOE and OMB have been appointed and confirmed raises concerns about how this process will be conducted without their leadership. An OMB Director has not yet been confirmed.¹⁸ Secretary Granholm, you were sworn in on February 25, 2021¹⁹—36 days into the review period. Neither an Undersecretary for Science and Energy nor an Assistant Secretary for Electricity have been nominated.²⁰ This also poses a challenge for adopting any replacement policy for this pressing issue in a timely manner.

In light of the Committee’s jurisdiction over energy research, development, and demonstration programs and ensuring those programs prepare our country for increasingly complex threats to electricity delivery, cybersecurity, and energy security—as well as the upcoming conclusion of the review period specified in EO 13990—we are requesting your response to the following questions:

1. What factors and information have DOE and OMB considered in conducting this review?
2. Who has participated in this review?
3. Other than the brief update to DOE’s website posted on February 9, 2021, what guidance or outreach have you provided to utilities and other stakeholders to alleviate any confusion about requirements for them regarding securing the bulk-power system while EO 13920 is suspended?
4. Do you anticipate that DOE and OMB will have reached a decision on whether to recommend that a replacement order be issued at the end of the 90-day suspension period specified in EO 13990? If not, when do you anticipate a decision?
5. How do you plan to notify, and eliminate any confusion for, utilities and other impacted stakeholders regarding what policies will be in effect and what provisions of EO 13920 and the prohibition order they must comply with at the conclusion of the 90-day review period?

¹⁶ *Id.* (response of Juan Torres, Associated Laboratory Director for Energy Systems Integration, National Renewable Energy Laboratory to questions from Rep. Bill Posey); H. Comm. on Science, Space, and Technology, *Hearing: Lessons Learned from the Texas Blackouts: Research Needs for a Secure...* (EventID=111307), YOUTUBE (Mar. 18, 2021), <https://www.youtube.com/watch?v=35oObfXxL-Y> (exchange begins at 1:07:49).

¹⁷ *Id.*

¹⁸ *E.g.*, *Biden Political Appointee Tracker*, WASH. POST, <https://www.washingtonpost.com/politics/interactive/2020/biden-appointee-tracker/> (last visited Apr. 14, 2021).

¹⁹ *Id.*

²⁰ *Id.*

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6. DOE's website mentioned above states, "[DOE] will continue its engagements with utilities on energy security issues during the suspension of EO 13920."²¹ What specific activities has DOE engaged in to ensure the security of the bulk-power system during this review period?

Please provide a response by April 28, 2021. Please contact Ms. Christen Harsha of the Committee minority staff at 202-225-6371 with any questions related to this inquiry. Thank you for your attention to this matter.

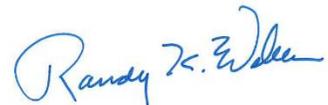
Sincerely,



Rep. Frank Lucas
Ranking Member
Committee on Science,
Space, and Technology



Rep. Bill Posey
Member of Congress



Rep. Randy Weber
Ranking Member
Subcommittee on
Energy



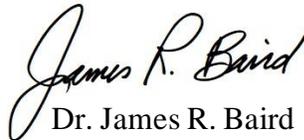
Dr. Brian Babin, D.D.S.
Ranking Member
Subcommittee on Space
& Aeronautics



Rep. Stephanie Bice
Ranking Member
Subcommittee on Environment



Rep. Mo Brooks
Member of Congress



Dr. James R. Baird
Member of Congress



Rep. Pete Sessions
Member of Congress



Rep. Young Kim
Member of Congress

²¹ *Securing the United States Bulk Power System Executive Order*, U.S. DEP'T OF ENERGY (Feb. 9, 2021), <https://www.energy.gov/oe/bulkpowersystemexecutiveorder#:~:text=On%20May%201%2C%202020%2C%20former,secure%20America's%20Bulk%20Power%20System> (last visited Apr. 2, 2021).

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Rep. Jake LaTurner
Member of Congress

cc: The Honorable Eddie Bernice Johnson, Chair, Committee on Science, Space, and
Technology.

The Honorable Jamaal Bowman, Subcommittee on Energy.

The Honorable Jennifer Granholm, Secretary, Department of Energy .