

STATEMENT FOR THE RECORD

Senator Tom Coburn

Ranking Member, Senate Homeland Security and Governmental Affairs Committee

Nomination Hearing for Alejandro Mayorkas

July 25, 2013

As the members of our Committee are by now aware, the Department of Homeland Security Office of Inspector General has confirmed it is investigating allegations of conflicts of interest, misuse of position, mismanagement and appearance of impropriety in actions by the witness at today's hearing, Mr. Mayorkas, as well as other U.S. Citizenship and Immigration Services (USCIS) officials.

The lack of confirmed leadership at the Department is a serious problem which concerns us all deeply. At the White House's request, my staff has worked in good faith to expedite our review of Mr. Mayorkas' nomination.

Unfortunately, neither the White House, nor DHS, nor Mr. Mayorkas himself disclosed to us the existence of an active investigation into Mr. Mayorkas, featuring allegations which, if true, may directly apply to his fitness to serve as Deputy Secretary and potentially Acting Secretary of DHS.

Asking Mr. Mayorkas to testify before our Committee in light of this investigation is unfair and improper. It is unfair first to Mr. Mayorkas, positioning him to face questions in a public forum based on incomplete understandings of the facts and allegations of the investigation into his conduct. It is unfair to Mr. Mayorkas also because his sworn testimony today could complicate any eventual legal strategy, should he face administrative or criminal charges. Perhaps most concerning, this hearing could force Mr. Mayorkas to make a choice between answering questions and exercising his fundamental Constitutional rights. I cannot in good conscience participate in forcing him to make that choice.

It is unfair to the Inspector General's investigators, who are as we speak attempting to fairly and fully determine the facts surrounding the allegations before them.

It is also unfair to the members of the Committee. We cannot fairly execute our duties without inquiring about any issues of concern regarding the nominee, which may include those under investigation. Are we to avoid asking questions regarding allegations which carry serious implications for Mr. Mayorkas' professional conduct? Are we to ask questions which could hurt Mr. Mayorkas or the investigators on his case?

Holding this hearing in light of an active investigation into serious, relevant allegations of professional misconduct by the nominee, and over the objections of the ranking member and others, appears to be virtually without precedent in the history of this or any other Senate committee.

As I and other members have already expressed, we believe the Committee must wait until these allegations against Mr. Mayorkas are resolved before deciding whether to move forward with his nomination.

I cannot participate in a hearing I believe to be unfair and improper to all parties involved. This is not a path I would choose under ordinary circumstances, but these circumstances are far from ordinary.

Once the allegations before the Inspector General are resolved and the Committee confirms no outstanding investigations exist regarding Mr. Mayorkas, I look forward to fully and fairly considering his nomination to be Deputy Secretary.