

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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March 16, 2018

The Honorable Mick Mulvaney
Director
Office of Management and Budget
725 17th Street, NW
Washington, D.C., 20503

Dear Director Mulvaney:

I am writing to request that you reverse your decision to withhold from Congress copies of downsizing plans that you and President Donald Trump required each federal agency to submit to your office by last September. Your new claim that these plans are now considered “deliberative” contradicts your own promises of openness and transparency and prevents Congress from fulfilling our core responsibility to fully evaluate federal agency reorganizations and the budget proposal submitted by the President last month.

Your New Claim That Agency Downsizing Plans Are “Deliberative”

On December 19, 2017, I sent a letter asking you to produce “copies of the final downsizing plans that the Trump Administration directed each agency to submit to the Office of Management and Budget (OMB) by the end of September.”¹ I noted that President Trump issued a memorandum on January 23, 2017, directing you and the Director of the Office of Personnel Management to “recommend a long-term plan to reduce the size of the Federal Government’s workforce through attrition.”²

On February 16, 2018, you sent a new letter declining to produce any of the downsizing plans, now claiming that they are “deliberative”:

[T]hose agency submissions are not end products of the process called for by the President and detailed in the OMB Memorandum. The deliberative process within the

¹ Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, to Director Mick Mulvaney, Office of Management and Budget (Dec. 19, 2017) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2017-12-19.EEC%20to%20Mulvaney-OMB%20re%20Agency%20Reorganization.pdf>).

² President Donald J. Trump, *Memorandum for the Heads of Executive Departments and Agencies* (Jan. 23, 2017) (online at www.whitehouse.gov/the-press-office/2017/01/23/presidential-memorandum-regarding-hiring-freeze).

Executive Branch will continue to play out in an iterative fashion. Meanwhile OMB continues to work with agencies to begin taking certain administrative actions to promote efficiency and effectiveness in advance of the release of the FY 2019 Budget.³

However, your explanation does not make sense. You argue that these agency downsizing plans are “deliberative” because they were going to be aligned “with the FY 2019 Budget process so the projected budgetary impact of proposals could be taken into account.”⁴ However, President Trump submitted his budget proposal to Congress four days before you sent your letter—on February 12, 2018.

If these agency downsizing plans have been incorporated into President Trump’s budget proposal—as you said they would be—then Congress should now be able to see them. By your logic, Congress would be forced to wait until these downsizing plans are fully implemented before reviewing them. If we accepted your argument, it would completely eliminate the fundamental role of Congress—and this Committee in particular—in evaluating proposed reorganizations of federal agencies, which is one of our core responsibilities.

Your recent claim that these agency downsizing plans must be withheld from Congress because they are “deliberative” also contradicts your own previous commitments of transparency and openness. On April 12, 2017, when you issued your memo directing federal agencies to submit these downsizing plans to your office by last September, you promised that the Trump Administration would work with “key stakeholders,” including the federal workforce and Congress, and seek “public input.”⁵

Agencies Already Implementing Downsizing Plans

Despite your refusal to provide Congress with copies of these downsizing plans, agencies have already begun to implement them. For example:

- At the State Department, recently fired Secretary Rex Tillerson chose to “embark on an ill-advised, poorly laid-out reorganization plan that led to a bleeding out of key talent at the department.” Since January 2017, “60 percent of the top-ranking career diplomats resigned,” and “Tillerson went along with the White House’s insane idea of slashing the State Department budget by more than 30 percent and cutting the department’s workforce by 9 percent.”⁶ Dozens of critical diplomatic

³ Letter from Director Mick Mulvaney, Office of Management and Budget, to Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform (Feb. 16, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/Cummings%20Reorg%202.16.18.pdf>).

⁴ *Id.*

⁵ Memorandum from Director Mick Mulvaney, Office of Management and Budget, to Heads of Executive Departments and Agencies, *Comprehensive Plan for Reforming the Federal Government and Reducing the Federal Civilian Workforce* (Apr. 17, 2017) (online at www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/M-17-22.pdf).

⁶ *The Sad State of the State Department: From Dreadful to Even Worse?*, Boston Globe (Mar. 13, 2018) (online at www.bostonglobe.com/opinion/2018/03/13/the-sad-state-state-department-from-dreadful-even-

posts are vacant, including Ambassadors to Germany, Australia, Saudi Arabia, and South Korea, more than “two dozen ambassador posts are waiting for nominations to be put forward,” and the Department is cutting dozens of Special Envoy offices.⁷

- Starting last June, the Department of the Interior began reassigning dozens of career senior executives and other civil service employees.⁸ According to press reports, many of these senior executives were “left in the dark” and had “absolutely no involvement whatsoever” in developing the agency’s plans.⁹ The President’s Fiscal Year 2019 budget proposal states that a “Department-Wide Reorganization Plan” will be implemented utilizing “a combination of attrition and separation.”¹⁰
- The Federal Labor Relations Authority is already in the process of closing two of its seven Regional Offices in Boston and Dallas. Employees reportedly were not even notified of this downsizing effort until last month.¹¹

Democratic Members have been seeking these documents for months, but Republicans have shown no interest in obtaining them. All Democratic Members of the Committee sent a letter on October 5, 2017, asking Chairman Trey Gowdy to obtain copies of these downsizing plans and to hold hearings, but he never responded.¹²

On February 2, 2018, I sent a second letter to Chairman Gowdy with Vice Ranking Member Gerald. E. Connolly requesting that the Chairman issue a subpoena for these

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⁷ *The State Department is Riddled with Key Vacancies as Trump Seeks Nuclear Talks with North Korea*, CNBC (Mar. 13, 2018) (online at www.cnbc.com/2018/03/13/the-state-department-is-riddled-with-key-vacancies.html); *Tillerson Scales Back State Department Restructuring Plan*, Politico (Feb. 7, 2018) (online at www.politico.com/story/2018/02/07/tillerson-state-department-restructuring-downsizing-397612).

⁸ *Zinke Moving Dozens of Senior Interior Department Officials in Shake-up*, Washington Post (June 16, 2017) (online at www.washingtonpost.com/politics/zinke-moving-dozens-of-senior-interior-officials-in-shake-up/2017/06/16/11801d3a-5295-11e7-b064-828ba60fbb98_story.html?utm_term=.7c7e77d881b6).

⁹ *Interior Offers a Preview of Its Reorganization Plan*, Federal News Radio (Jan. 15, 2018) (online at www.federalnewsradio.com/management/2018/01/interior-offers-a-preview-of-its-reorganization-plan/).

¹⁰ Department of the Interior, *Fiscal Year 2019 The Interior Budget In Brief* (Feb. 2018) (online at www.doi.gov/sites/doi.gov/files/uploads/2019_highlights_book.pdf).

¹¹ Federal Labor Relations Authority, *Congressional Budget Justification 2019* (Feb. 2018) (online at www.flra.gov/system/files/webfm/FLRA%20Agency-wide/Public%20Affairs/CBJ/FLRA%20FY%202019%20CBJ%20-%20FINAL%20revised.pdf).

¹² Letter from Ranking Member Elijah E. Cummings et al. to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (Oct. 5, 2017) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2017-10-04.EEC%20OGR%20members%20to%20Gowdy%20re%20Agency%20Downsizing.pdf>).

downsizing plans or allow Committee Members to debate and vote on this motion, but again, he never responded.¹³

Representative Connolly attempted to offer a motion to subpoena these documents at a Committee business meeting on February 6, 2018, but Republicans blocked this effort as well.¹⁴

Request for Reconsideration

This is Sunshine Week, when we focus on improving transparency and openness in government. The Government in Sunshine Act states:

It is hereby declared to be the policy of the United States that the public is entitled to the fullest practicable information regarding the decisionmaking processes of the Federal Government.¹⁵

Rule X of the House of the Representatives states that the Committee on Oversight and Government Reform has jurisdiction over “reorganizations in the executive branch of the Government.”¹⁶ Rule X also states:

The Committee on Oversight and Government Reform shall review and study on a continuing basis the operation of Government activities at all levels with a view to determining their economy and efficiency.¹⁷

Congress cannot allow the Trump Administration to secretly push through one of the most significant—and potentially dangerous—downsizing efforts in modern U.S. history under the cover of darkness. Congress has a responsibility to review these agency downsizing plans in order to evaluate President Trump’s budget proposal and ensure that they result in greater efficiency and effectiveness.

For all of these reasons, I respectfully request that you reverse your current refusal to comply with our request and produce copies of all agency downsizing plans submitted to your office.

¹³ Letter from Ranking Member Elijah E. Cummings and Vice Ranking Member Gerald E. Connolly to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (Feb. 2, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-02-02.EEC%20%26%20Connolly%20to%20Gowdy%20re.13%20motions%20for%20Subpoenas.pdf>).

¹⁴ House Committee on Oversight and Government Reform, *GOP Blocks 13 More Subpoena Motions for a Total of 19 Subpoenas Rejected by Oversight Committee* (Feb. 6, 2018) (online at <https://democrats-oversight.house.gov/news/press-releases/gop-blocks-13-more-subpoena-motions-for-a-total-of-19-subpoenas-rejected-by>).

¹⁵ Pub. L. No. 94-409 (Sept. 13, 1976).

¹⁶ House rule X, clause 1, subdivision n (12).

¹⁷ House rule X, clause 3, paragraph (i).

The Honorable Mick Mulvaney
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Thank you for your prompt attention to this request.

Sincerely,



Elijah E. Cummings
Ranking Member

cc: The Honorable Trey Gowdy, Chairman
Committee on Oversight and Government Reform