

Congress of the United States
Washington, DC 20515

January 20, 2021

Neera Tanden
Director-designate
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Director-designate Tanden,

Congratulations on your nomination to be the Director of the Office of Management and Budget (OMB). As the Biden Administration begins, we write to you in the spirit of collaboration to express our optimism about our work ahead to ensure our nation's budgets and programs reflect the country's shared values of hard work, fairness, and respect, in order to build and support a more equitable economy. We look forward to your leadership of OMB, and are eager to work with you to bolster OMB's expertise, transparency, and overall effectiveness. To those ends, we write to suggest you prioritize the following initiatives for the beginning of your tenure:

Restore Technical Expertise to the Management of Federal Funds. In enacting the provisions collectively known as the Antideficiency Act to protect Congress's power of the purse, the Congress assigned the responsibility to apportion funding to the President, to prevent the disparate agencies from engaging in irresponsible spending of resources that could create coercive deficiencies. Apportionments are technical, legally-binding budgetary documents, and the responsibility to apportion funding has historically been delegated to senior civil servants in the Deputy Associate Director (DAD) position at OMB.

It is our understanding, however, that the prior administration instead delegated that responsibility to the politically-appointed officials in the Program Associate Director (PAD) position. We have been consistently concerned by this choice, and hope you agree that this important technical responsibility should be restored to the DADs, consistent with long-standing practice.

We also have concerns with the ill-conceived efforts of the prior administration to remove civil service protections from almost 90 percent of the career employees at OMB pursuant to Executive Order 13957 ("Creating Schedule F in the Excepted Service"). As the Biden

Administration works to rescind and undo the effects of this mis-guided Executive Order we stand ready to help with any necessary legislative remedies to further those efforts.

Reliable, Transparent, and Expedient Exchange of Information. OMB can be most effective when it serves as a source of technical and legal expertise in the consistent application of fiscal law and for the administration's policies across government programs. A critical component of that expertise is credibility, which can only ultimately be achieved through transparency and engagement—including with the legislative branch. We suggest the following initiatives to demonstrate the successful exchange of information:

- Publish the delegations of apportionment authority under the Antideficiency Act.
- Provide complete information and justification accompanied by proposed legislative text to the Congress when transmitting any budget amendment or supplemental appropriations request.
- Reinstigate the requirement in OMB Circular A-11 (“A-11”) to require every executive agency to respond to any violation of the Antideficiency Act reported by the Comptroller General of the Government Accountability Office by reporting to the Congress (as was historically required until revisions to A-11 promulgated in June 2019).

Prior Administration's Special Message and Withholding of Funds. This past December, the Congress enacted full-year appropriations for all twelve annual appropriations acts with the hope that it would provide the incoming administration an opportunity to look forward. However, on January 14, the previous administration transmitted a special message of 73 rescission proposals under the terms of the Impoundment Control Act of 1974 (“ICA”), thereby relitigating an agreement enacted only 20 days before. That same day the previous administration exercised its authorities under the ICA to withhold over \$27 billion by issuing a blanket letter apportionment (OMB Bulletin No. 21-02).

In the near-term, we hope that OMB will abandon the prior administration's last-ditch efforts to rescind these funds by immediately retracting both OMB Bulletin No. 21-02 and the January 14 special message, while moving to expeditiously approve full-year account-specific apportionments for all of the affected funds. Looking further into the future, we hope for your support in making important and long-lasting reforms to the relevant statutes that govern the management of funds to increase transparency and efficiency.

These initiatives are not exhaustive of the reforms and progress we expect this Administration will achieve over the next four years, and our committees are eager to continue to work with you to increase OMB's transparency, expertise, and credibility.

Thank you for your timely attention to this matter.

Sincerely,



Rosa L. DeLauro
Chair
House Committee on
Appropriations



John A. Yarmuth
Chairman
House Committee on
the Budget



Mike Quigley
House Committee on
Appropriations

Cc: Robert Fairweather, Acting Director, Office of Management and Budget