

June 22, 2017

The Honorable Mick Mulvaney  
Director  
Office of Management and Budget  
Executive Office of the President  
Washington, D.C. 20503

Dear Director Mulvaney:

On behalf of the over 400 member companies of the Professional Services Council (PSC)<sup>1</sup>, I am writing to provide our views on some of the actions you took in your June 15, 2017 memorandum “Reducing Burden for Federal Agencies by Rescinding and Modifying OMB Memoranda.” PSC strongly supports removing outdated and unnecessary regulatory and administrative burdens on federal agencies, on government contractors, and on taxpayers, and we support your initiative to eliminate, modify or pause most of the 59 OMB documents addressed in your memo.

However, we have concerns with three actions covered in your memo and request that you revise these actions accordingly.

Accelerated Payments to Small Business and Small Business Subcontractors

OMB Memo M-17-13 (January 11, 2017) provides direction to federal agencies to accelerate legitimate government payments to small business contractors with the goal of making payments within fifteen days of receipt of relevant documents.<sup>2</sup> That direction is in effect through December 31, 2017. Your June 15 memo eliminates agency quarterly progress reporting while encouraging agencies to continue to accelerate payments “to the best of their ability.” We concur that the quarterly reporting required under OMB Memo M-17-13 was unnecessarily onerous and could be eliminated. However, there is now confusion whether the underlying direction to the federal agencies to continue to make accelerated payments remains in full force because of the related language in your memo that merely “encourages” agencies to continue to take such action. We strongly recommend that you fully rescind all prior OMB memos on this topic and issue a new memo that provides only the policy direction to the agencies to continue to accelerate payments to small business and small business subcontractors without imposing any reporting requirement on the agencies. You can be confident that PSC and the small business community will be closely monitoring agency compliance with your updated direction.

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<sup>1</sup> PSC is the voice of the government technology and professional services industry. PSC’s more than 400 member companies represent small, medium and large businesses that provide federal agencies with services of all kinds, including information technology, engineering, logistics, facilities management, operations and maintenance, consulting, international development, scientific, social, environmental services, and more. Together, the trade association’s members employ hundreds of thousands of Americans in all 50 states.

<sup>2</sup> As described in OMB Memo M-17-13 (January 11, 2017), and earlier OMB guidance memos covering the same topic, the term “relevant documents” refers to the standards under the Prompt Payment Act implementing regulations. We have no objection to the use of this standard.

### Conducting Acquisition Assessments under OMB Circular A-123<sup>3</sup>

In order to allow agencies to focus on reorganization planning and execution as provided for in Executive Order 13781 and OMB Memo M-17-22, your memo “pauses” the requirement that federal agencies conduct entity-level internal control reviews of the acquisition function in accordance with OMB Circular A-123 and then integrate their assessment efforts with existing agency internal control processes and practices. In our view, requiring agencies to continue to perform their review of internal controls of their acquisition functions should remain an essential element of agency management, even during their internal reorganizational assessments. Once agency reorganization plans are approved, agencies would be able to modify their A-123 reviews to address any organizational or operational changes.

These assessments have been instrumental in measuring agency compliance with Federal procurement law and regulation, in shaping corrective actions to address root causes for non-compliance, and in measuring effectiveness and efficiency of agency operations. The findings have frequently helped agencies shape their corrective actions to address the root causes for non-compliance. In addition, assessments of the four interrelated “cornerstones” of (1) organizational alignment and leadership, (2) policies and processes, (3) human capital, and (4) information management and stewardship have yielded significant findings concerning the extent to which agencies are operating acquisition functions that are efficient, effective and accountable to the taxpayer.

### Reporting of Priority Goals to Performance.gov

Your memo acknowledges that the GPRA Modernization Act requires agencies to provide quarterly progress reports via performance.gov with respect to both individual agency and cross-agency priority goals. However, notwithstanding the statutory requirement, your memo directs agencies to discontinue reporting on all previously covered priority goals for the remainder of fiscal year 2017, even when those goals align with the Administration’s current priorities, as confirmed by OMB’s Resource Management team. These quarterly reports have provided valuable insight into agency activities, including successes and remaining challenges. In the case of the cross-agency goal for security clearance, for example, the quarterly reports have provided critical information on addressing key administration, congressional and industry interests. We strongly recommend that OMB promptly identify those current agency-specific and cross-agency goals that align with the Administration’s priorities and direct responsible parties to continue to provide quarterly updates to the performance.gov site. As new goals are added, they should be promptly added to the site and reported on quarterly.

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<sup>3</sup> While your memo cites May 21, 2008 as the date for OMB Circular A-123, we believe the Circular was updated on July 25, 2016, via OMB Memo M-16-17, that superseded all prior versions. See <https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2016/m-16-17.pdf>.

Thank you for your attention to these important issues. PSC would be pleased to work with you and your team on these matters. In the interim, if PSC or I can provide you with any additional information, please do not hesitate to let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Alan Chvotkin". The signature is fluid and cursive, with the first name being more prominent.

Alan Chvotkin, Esq.  
Executive Vice President and Counsel

CC: Noreen Hecmanczuk  
Lesley Field, Acting Administrator, OFPP