

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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WASHINGTON, DC 20515-6143

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<http://oversight.house.gov>

August 26, 2019

The Honorable Emily Murphy
Administrator
General Services Administration
1800 F Street, N.W.
Washington, D.C. 20405

Dear Administrator Murphy:

We write regarding the Administration's plan to merge parts of the Office of Personnel Management (OPM) with the General Services Administration (GSA). Despite the serious concerns expressed by Congress about the proposal, including the absence of a coherent justification for a reorganization, the lack of adequate planning and stakeholder engagement, and the passage of legislation prohibiting the Administration from taking additional steps to effectuate this merger, OPM Acting Director Margaret Weichert continues to push forward with this reorganization, reportedly telling staff that she is "planning to play chicken with Congress."¹

For these reasons, the Committee is evaluating GSA's role in this proposal and the actions the agency has taken to prepare to receive several key functions currently performed at OPM.

Last month, we wrote to Acting Director Weichert conveying in the clearest possible terms that we oppose the Administration's intentions to eliminate OPM.² The letter noted that in its last two appearances before the Committee on Oversight and Reform, OPM failed to justify the Administration's intention to eliminate the agency; provide basic planning documents, including a legal analysis of the authorities required to implement the proposed abolition of OPM; and assure the Committee that moving OPM's policy functions to the Executive Office of the President would not reverse more than 100 years of civil service reform.

¹ *The Trump Administration Threatens Furloughs, Layoffs at OPM if Congress Doesn't Let It Kill Personnel Agency*, Washington Post (June 19, 2019) (online at www.washingtonpost.com/politics/trump-administration-threatens-furloughs-layoffs-if-congress-doesnt-let-it-kill-personnel-agency/2019/06/19/b7200fda-9135-11e9-b58a-a6a9afaa0e3e_story.html?utm_term=.2ae76d3c2b81).

² Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, and Chairman Gerry E. Connolly, Subcommittee on Government Operations, to Deputy Director for Management and Acting Director Margaret Weichert, Office of Personnel Management (July 15, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-07-15.%20EEC%20GEC%20to%20Weichert-OPM%20OMB%20re%20Follow%20up.pdf>).

The Committee has repeatedly attempted to work with staff at OPM and the Office of Management and Budget (OMB) to obtain information that would demonstrate that the Administration performed its due diligence when developing this proposal. However, both OPM and OMB have failed to provide or create basic documents that would allow for oversight of the plan.

In addition, recent actions taken by OMB, OPM, and GSA suggest that the Administration is not working in good faith with Congress. Despite actions taken by the Committee and the House of Representatives to prohibit the Administration from taking additional steps to merge OPM with GSA, the Administration took another step last month to advance the merger by announcing plans to move two OPM-led Councils—the Chief Human Capital Officers Council and the Performance Accountability Council—to GSA.³

The Administration appears to be forging ahead with this proposed merger despite the lack of adequate planning, preparation, or a clear analysis of the legality of its proposal. For these reasons, the Committee now requests that GSA produce by September 9, 2019, all documents referring or relating to:

- Any legal analysis by any government agency or outside organization of the authority to perform the reorganization, or what authority would be needed from Congress to accomplish it;
- Any legal analysis specific to GSA's authority to receive parts of OPM;
- All authorities and missions of OPM that will be transferred to GSA;
- How moving OPM components to GSA will impact GSA operations;
- The leadership and team members at GSA administering the reorganization;
- Timelines of all previous, ongoing, and planned reorganization actions;
- Any risk analysis and contingency plans related to merging OPM with GSA;
- Any new location and reporting structure for the OPM Director;
- The effects the proposal has had and will have on GSA staff;
- Any plans for GSA to assume the management of OPM's functions and responsibilities;

³ *Trump Administration Takes Another Baby Step to Advance OPM-GSA Merger*, Federal News Network (July 30, 2019) (online at <https://federalnewsnetwork.com/reorganization/2019/07/trump-administration-takes-another-baby-step-to-advance-opm-gsa-merger/>).

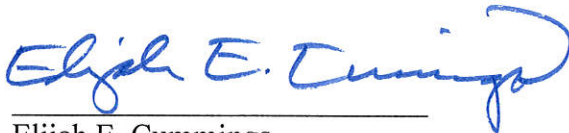
- Any plans to protect sensitive data held by OPM, including personally identifiable information and personally identifiable health information of millions of federal employees and their families;
- Actions GSA has taken to date to carry out the merger, including all actions taken regarding improving OPM's information technology posture;
- Any estimates of the cost to GSA to complete the merger; and
- Funding GSA has spent to date on actions related to the merger.

If any of these documents do not currently exist, please inform the Committee of that fact.

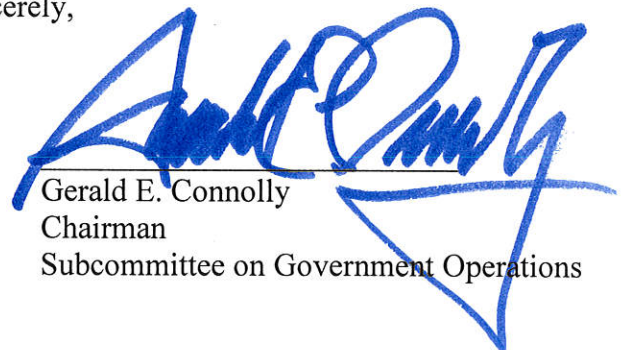
The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X.

An attachment to this letter provides additional instructions for responding to the Committee's request. If you have any questions regarding this request, please contact Subcommittee staff at (202) 225-5051.

Sincerely,



Elijah E. Cummings
Chairman
Committee on Oversight and Reform



Gerald E. Connolly
Chairman
Subcommittee on Government Operations

Enclosure

cc: The Honorable Jim Jordan, Ranking Member
Committee of Oversight and Reform

The Honorable Mark Meadows, Ranking Member
Subcommittee on Government Operations

Responding to Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committees.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committees' preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
 - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - b. Document numbers in the load file should match document Bates numbers and TIF file names.
 - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - d. All electronic documents produced to the Committees should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.

7. Documents produced to the Committees should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committees' letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee on Oversight and Reform, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building. When documents are produced to the Committee on Financial Services, production sets shall be delivered to the Majority Staff in Room 2129 of the Rayburn House Office Building and the Minority Staff in Room 4340 of the O'Neill House Office Building. When documents are produced to the Permanent Select Committee on Intelligence, production sets shall be delivered to Majority and Minority Staff in Room HVC-304 of the Capital Visitor Center.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a

part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.