

Congress of the United States
Washington, DC 20515

August 7, 2017

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

The Honorable Neomi Rao
Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Dear Director Mulvaney and Administrator Rao:

We write to express our alarm concerning the lack of transparency, accountability, and independence of the Regulatory Reform Task Forces. These Task Forces were established by President Trump through Executive Order 13777 for the purpose of recommending agency rules to be repealed.¹ We believe that the interests of the American public must be paramount when reviewing the worthiness of regulations. Therefore, these Task Forces must have an effective and transparent guard against conflicts of interest, especially those in which industry lobbyists seek to overturn environmental and health protections for financial gain. It appears that the current Task Forces are already failing on this front, and instead are actively hiding their members and their meetings from public view.

According to a joint investigation by the *New York Times* and *ProPublica*, these Task Forces have been “conducted in large part out of public view and often by political appointees with deep industry ties and potential conflicts.”² Some agencies have reportedly refused to release basic information about these deregulatory Task Forces, such as the names of the people appointed to serve on them.³

Nearly a third of identifiable employees serving on Regulatory Reform Task Forces also have material conflicts of interest, according to the joint investigation. These employees include “lawyers who have represented businesses in cases against government regulators, staff members of political dark money groups, employees of industry-funded organizations opposed to

¹ 82 C.F.R. § 12285 (2017) (online at www.federalregister.gov/documents/2017/03/01/2017-04107/enforcing-the-regulatory-reform-agenda).

² Danielle Ivory & Robert Faturechi, *The Deep Industry Ties of Trump’s Deregulation Teams*, *New York Times* (July 11, 2017) (online at www.nytimes.com/2017/07/11/business/the-deep-industry-ties-of-trumps-deregulation-teams.html).

³ *Id.*

environmental rules and at least three people who were registered to lobby the agencies they now work for.”⁴

Even worse, several employees may stand to profit from their activity on a Task Force.⁵ Some agencies, such as the Environmental Protection Agency (EPA), have refused to disclose whether Task Force members are working on matters related to their former employers or whether they own stock in companies affected by the work of the Task Force upon which they serve.⁶ This includes “some hires who may be reviewing rules their previous employers tried to weaken or kill, and others who may personally profit if certain regulations are changed.”⁷ For example, the wife of one Task Force member at the EPA is a top lobbyist for a large oil company.⁸ Another Task Force member at the Department of Housing and Urban Development (HUD) owns stock in a real estate investment marketplace while simultaneously charged with reviewing rules that will affect real estate investors.⁹ Rather than “drain the swamp,” these conflicts threaten to influence the outcome of the review process against hardworking Americans and in favor of regulated industries and agency staff.

We are also concerned with the secrecy of meetings held by these Task Forces, which has largely occurred behind closed doors without public input. In some cases, meetings with regulated entities, lobbyists, or trade associations are only identifiable through handwritten sign-in sheets. For example, a review of over 1,300 pages of sign-in sheets involving one agency alone revealed that “at least 58 representatives of the oil and gas industry” met with the agency’s deregulatory Task Force in just four months.¹⁰ There does not appear to be a record of the meeting notes, the matters discussed, or subsequent actions taken by government employees serving on these Task Forces. It is also unclear whether every Executive Branch agency even maintains a record of these meetings as required by the Federal Records Act.¹¹

Withholding the names and titles of Task Force participants may also violate the Freedom of Information Act (FOIA).¹² The Department of Justice’s FOIA Guide explicitly

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ Danielle Ivory, Robert Faturechi, & Karl Russell, *The Business Links of Those Leading Trump’s Rollbacks*, New York Times (July 11, 2017) (www.nytimes.com/interactive/2017/07/11/business/conflicts-trump-regulation-rollback-team.html).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ 44 U.S.C. 3101.

¹² 5 U.S.C. § 552 (2017).

states that “[c]ivilian federal employees who are not involved in law enforcement or sensitive occupations generally have no expectation of privacy regarding their names, titles, grades, salaries, and duty stations as employees.”¹³

These task forces are eerily reminiscent of the secretive energy task force run by former Vice President Cheney. Simply put, it is unacceptable for federal agencies to operate in such a clandestine and unaccountable manner especially when the result could be the undoing of critical public health and safety protections. The implementation of Executive Order 13777 must be “consistent with applicable law.”¹⁴ Accordingly, we request that you provide the following documents and information no later than August 25, 2017:

1. A description of every Task Force created pursuant E.O. 13777, the agency hosting the Task Force, and other agencies participating in the Task Force.
2. A list of the names, titles, and organizations of every member of each Task Force established by E.O. 13777.
3. All documents and communications related to waivers issued under E.O. 13770 for any member of a Task Force created under E.O. 13777, including a copy of any waiver issued.
4. For each Task Force created under E.O. 13777, a list of all members who have recused themselves from any matters related to their prior employer or any matter related to their prior employment and a description of the reason for such recusal.
5. For each Task Force created under E.O. 13777, a list of all Task Force members for whom written certifications were made under section 208(b) of title 18, United States Code, a copy of each such certification, a summary description of the conflict necessitating the certification, and the reason for granting the certification.
6. All documents and communications related to participation in Task Force meetings by non-governmental entities including comments and advocacy materials.
7. Please describe any requirements ensuring that Task Forces obtain balanced input and are not unduly influenced by special interests.


¹³ Department of Justice, Guide to the Freedom of Information Act (2013) (online at www.justice.gov/oip/doj-guide-freedom-information-act-0).

¹⁴ 82 C.F.R. § 12285 (2017) (online at www.federalregister.gov/documents/2017/03/01/2017-04107/enforcing-the-regulatory-reform-agenda).

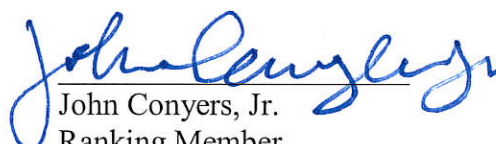
8. Please describe what, if any, measures agencies are taking to provide transparency for the regulatory review process under E.O. 13777.
9. Please explain why some agencies have refused to disclose the names of Task Force members in response to FOIA requests.

Thank you for your prompt attention to our request.

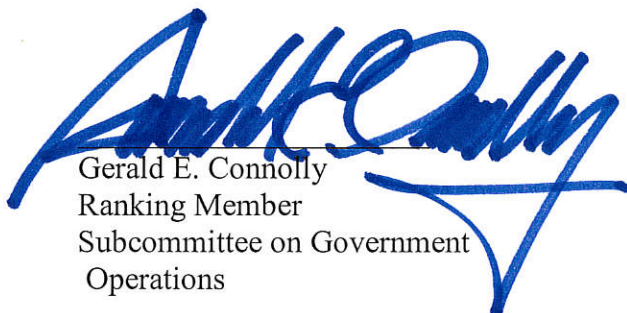
Sincerely,




Elijah E. Cummings
Ranking Member
Committee on Oversight and
Government Reform



John Conyers, Jr.
Ranking Member
Committee on the Judiciary



Gerald E. Connolly
Ranking Member
Subcommittee on Government
Operations



David Cicilline
Ranking Member
Subcommittee on Regulatory Reform,
Commercial and Antitrust Law

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

cc: The Honorable Bob Goodlatte, Chairman
Committee on the Judiciary

cc: The Honorable Tom Marino, Chairman
Subcommittee on Regulatory Reform, Commercial and Antitrust Law

cc: The Honorable Mark Meadows, Chairman
Subcommittee on Government Operations