Office of Management and Budget

Ensuring Fiscal Responsibility and Government Accountability

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The Office of Management and Budget is a tremendous resource to a new president, providing deep professional expertise and analytical capacity to help the administration build and execute its new policy agenda. After the election, the work at OMB starts at a run. Even before the Inauguration, the transition team working with OMB should begin preparing the 2010 Budget for transmittal to Congress by the end of February—a task requiring quick decisions on everything from Medicare and budget enforcement rules to the withdrawal of troops from Iraq. The new administration will face a difficult balancing job: to reestablish the importance of fiscal responsibility while simultaneously advancing a core policy agenda for economic growth and opportunity. The presidential transition team and the career OMB staff will also need to prepare to take control over the government regulatory process—a critical undertaking—immediately upon taking office. The 2010 Budget and especially the 2011 Budget will require significant time and attention, but OMB also has the opportunity for direct policy impact through focused attention on fixing government performance in targeted areas, through reform of government outsourcing policies, and through an in-depth review of all presidential Executive Orders issued over the past 8 years.

The new president will face the challenge of quickly taking control of the federal budget and federal bureaucracy. OMB is the single institution that will offer a ready, willing, and able team to provide the new administration with visibility across the entire government, and the ability to take immediate policy action. In the slightly longer run, OMB is also the institution that will work with the rest of the economic and national security team to allow the 44th president to lay out a detailed program for executive branch and congressional action.

When other policy councils in the White House are settling into new offices, without files or history, OMB offers institutional memory, context, and practical advice. That's why it's critical for the new president and his team to embrace OMB immediately, taking advantage of its fully operational analytic staff with a deep tradition that it serves both the president and the presidency—rather than make the mistake of previous administrations by taking

the better part of a year to accept the idea that the OMB career staff are non-partisan.

Historically, OMB's staff, filled with experts on every federal department, program, regulation, and benefit, has exemplified the best of the federal civil service. As a small agency—490 employees today, down by approximately 30 from the end of the Clinton Administration—OMB has the capacity to be nimble, and is the one office that can consider issues and help the new president make policy on a sector- or government-wide basis selectively in the short-term and comprehensively over the course of his administration.

OMB, however, has lost some if its institutional clout during the Bush administration years. Budget enforcement laws in effect in the 1990s expired in 2002, eroding some of OMB's institutional influence that came from its score-keeping and forecasting functions. The new president should work with the Congress to reinstate those rules, which will help to restore OMB's role in the budget enforcement process. During the Bush administration, OMB's emphasis also shifted from program-by-program budget review to "performance" measurement exercises of questionable utility.

OMB's work will be fast and furious. Roughly 30 days after the Inauguration, the new president's first budget is due to Congress. Meanwhile, OMB will need on day one to gain control over pending regulations developed by the Bush administration during its waning months in office.

Indeed, taking control of the regulatory process will be the first major challenge at OMB for the new administration because many parts of the government are still moving forward regardless of the wishes of the electorate on the first Tuesday in November. But the first budget, for fiscal year 2010, which begins in October 2009, will almost immediately require attention as well.

By the end of the first summer, OMB will begin the process of developing the president's first bottom-up Budget for fiscal year 2011 for delivery to Congress the following February, a mid-session review of the 2009 budget is due, substantial progress should be made on reviewing Bush-era Executive Orders, and reviews of competitive outsourcing practices and government performance reforms should be well advanced. This is a clearly a fast-paced agenda that requires first and foremost the key top officials in place to make it happen quickly and efficiently.

Top Priorities: Filling Key Positions

Work on the new president's FY 2010 Budget should begin immediately after the election. The president-elect is likely to announce his nominee for OMB

director in the initial round of cabinet selections, but the transition team will be the new administration's first point of contact with OMB staff. That team should include the president-elect's top budget advisors and those with budget experience, as well as lawyers with regulatory expertise who can advise the White House on critical near-term regulatory steps to forestall the late Bush administration efforts to implement policy after the election, and to initiate important initiatives of the incoming administration.

Hopefully, the incoming transition team will enjoy the access granted to the Bush transition team in late 2000, when the outgoing Clinton administration granted access to OMB staff immediately, so that the new transition team can gather the data and analysis essential to craft the first budget. This is important, as the president's initial budget is due to Congress just a month after the Inauguration.

The first appointees at OMB should include, in addition to the director, two top positions that also require Senate confirmation—deputy director and deputy director for management—as well as the associate director for communications who can serve as the lead budget writer, the program associate directors for health and defense/international, and a chief economist, none of whom require confirmation.

The new president should also rush to the Senate his nominee for administrator of the Office of Information and Regulatory Affairs, the most important government agency no one has ever heard of. Since there is often a delay in confirming officials below the cabinet and deputy level, the transition team is likely to play a particularly critical role in ensuring that day one steps are taken to stop publication of last-minute regulations by the outgoing Administration.

The First 30 Days

The new president will need to assume immediate control over a sprawling regulatory apparatus, operating in scores of executive branch agencies running full steam to promulgate hundreds of rules developed by the Bush administration over the previous eight years. It is common practice for an exiting administration to push out as many rules as possible before a new president takes control. The Bush administration's "midnight regulations" will probably include controversial actions intended to, among other things, roll back existing public health, safety, and environmental regulations, and set standards at levels well below those desired by state and local governments in an effort to preempt more protective measures.

Regulations are the most frequently used, and are often the most effective

tool available to achieve a new administration's social, economic, environmental, and public health and safety policies. Much of the regulatory activity of executive branch agencies goes unnoticed by the media, but these actions often have the most profound impact on our nation's citizens, businesses, and communities.

It is a basic tenet of administrative law that once a regulation goes into effect, the only way to overturn it is through the same notice-and-comment process mandated by the Administrative Procedure Act. Thus, as soon as possible after taking the oath of office at noon on January 20, 2009, the incoming president should issue a government-wide "stop order" to immediately freeze all pending regulatory actions. By maintaining the status quo, the new administration will have breathing room to review rules under development, letting those that are consistent with the incoming president's agenda and policies move forward and modifying or withdrawing those that are not.

This is precisely what both President Clinton and President G.W. Bush did on their first day in office. They sent a memorandum, signed by the OMB director and the White House chief of staff, respectively, to the heads of all executive branch departments and agencies directing that, with certain very limited exceptions, no proposed or final regulations were to be sent to the Federal Register for publication (a key step under the APA in issuing a regulation in proposed or final form) until a department or agency head appointed by the new president had reviewed and approved the regulation. Both incoming administrations also required that any proposed or final regulations already sent to the Federal Register, but not yet published, should be withdrawn immediately for such review and approval.

The Bush memo went one step further, however, requiring agencies to delay the effective date of any final regulation that had been published in the Federal Register but not yet taken effect—a debatable legal step that was never ruled on by the courts. Rather than risk court challenge, the new president should instead work with Congress, using the Congressional Review Act to deal with any problematic regulations that have already been published in the Federal Register (whether or not they have taken effect). The CRA provides a limited window to disapprove a regulation, making it null and void.[1]

Both the Clinton and Bush "stop orders" contemplated that OMB would coordinate the review of pending agency actions, reaffirming the importance of the centralized regulatory review process carried out by OIRA, which has served as the principal and most effective means by which the president oversees and manages the regulatory activities of the federal bureaucracy.[2] OIRA's centralized review process enables a president to co-ordinate a government-wide

regulatory policy and receive a relatively dispassionate and analytical "second opinion" on the output of Executive Branch agencies operating in his name.[3]

A centralized OMB review process, however, is not universally acclaimed. Various pro-regulatory groups are skeptical of or even hostile to the notion, arguing that because Congress has delegated the authority to regulate to the agencies that are expert and publicly accountable, OMB review is not an appropriate substitute for agency discretion. But those who have studied the issue from the perspective of the president, including liberal and conservative Democrats, have uniformly concluded that the president must have a centralized mechanism to review regulations as an important tool to implement policy.

Still, it may take some time for the new administration to develop its own policies for regulatory review. In the interim, then, the administration should revert to Clinton's E.O. 12866, which established a centralized review process that struck a balance between the need for centralized review and the role of agency discretion that was generally accepted by virtually all affected entities—agencies, state and local governments, public interest groups, and industry.[4]

By contrast, President Bush's amendments to E.O. 12866 have been criticized as inappropriately politicizing OIRA's review process by, among other things, expanding review to cover agency non-binding guidance documents, installing at each agency a presidentially appointed "regulatory policy officer" invested with the authority to review and disapprove rulemakings at the agency, and elevating "market failure" above other justifications for regulations.

The new president should therefore rescind—by Executive Order—Bush's E.O. 13422 as quickly as possible, preferably in conjunction with the "stop order" issued on January 20, 2009. This action will leave in place the Clinton regulatory review process, which is far more likely to be consistent with the new administration's policies.[5]

In addition, the president should invite discussion of how E.O. 12866 should be modified in light of the experience of the last 25 years under various Executive Orders. It is important that the new president reaffirm the legitimacy and importance of centralized review *and* clearly state that regulations are important in protecting public health and safety, our shared resources, and economic opportunities. He should announce the creation of a Task Force chaired by OIRA and the White House counsel's office to coordinate a transparent and inclusive process to develop a new centralized review E.O., which should be issued by the summer of 2009. This process should include a broad discussion of other Bush-era regulatory circulars and bulletins that, taken together, have imposed significant burdens and constraints on resource-limited regulatory agencies.[6]

A cautionary note is warranted here. Executive Orders tend to be overused at the start of an administration because they can be issued with few restrictions and no formal process. But many early attempts to implement policy through Executive Orders end in failure. Indeed, of the E.O.s issued during the first year of President Clinton's first term, 25 percent were later rescinded by the Clinton administration. There is a limited capacity to develop and implement policies during transition, and doing a few things right should be the guiding principle.

Preparing the First Budget

Since 1981, when the new Reagan administration used the budget reconciliation process to implement a broad program of budget and policy initiatives in an omnibus manner, an incoming president's first budget has been an opportunity to make dramatic policy statements and drive a new agenda, claiming an electoral mandate to accomplish large goals. In 1981, the first Reagan budget called for massive domestic spending and tax cuts, as well as massive defense spending increases. In 1993, the first Clinton budget charted a course for deficit reduction and fiscal responsibility, along with targeted investments in a progressive agenda. And in 2001, the first Bush budget proposed tax cuts that, once enacted, consumed virtually all of the surplus generated by Clinton-era policies.

In 2009, a new administration will face a difficult balancing job. It will need to reestablish the importance of fiscal responsibility while simultaneously advancing a core policy agenda for economic growth and opportunity. This agenda will likely include, at a minimum, investments in health care, education, the environment and alternative energy, and long-neglected infrastructure repairs and improvements, priorities discussed at greater length in other chapters of this book. But many other bills coming due threaten to crowd out these investments, among them financing issues in both Social Security and Medicare, expiring tax cuts, the Alternative Minimum Tax, spending on the wars in Iraq and Afghanistan, and ongoing defense requirements.

The Bush administration "kicked the can down the road" by allowing budget enforcement rules to lapse, cutting taxes for the wealthy while debt financing a war, and generally increasing government spending. And the Bush budgets did nothing to address the coming financial pressures presented by rising health costs across the economy. To chart a more responsible course, the new administration will need to make threshold decisions on whether the economy needs additional fiscal stimulus, how much of the 2001 tax cuts the administration wants to extend, the scope of action required to deal with the AMT, the pace

and spending implications of withdrawal from Iraq, and spending growth in Medicare and Medicaid.

The answers to these questions, set against the cost of maintaining existing programs at their current levels—known as the current services baseline in budget parlance—will indicate whether it might be possible to aim for a balanced budget, and how much deficit reduction can be achieved in the near term. Both the scale and complexity of these spending and tax policy issues, combined with the desired investment agenda of the new administration, means that the new president should move cautiously before announcing a target year to reach surplus. And he should do so after extensive consultation with Congress as part of a broad deficit reduction and investment strategy.

The Deficit Context

While the past eight years represent a significant missed opportunity to address some of the most pressing fiscal issues, nonetheless the new president will inherit a fiscal context that is not as immediately dire as the one President Clinton found in 1993. At that time, the federal deficit was 4.7 percent of GDP, national debt was 48 percent of GDP, and both were growing rapidly. Fiscal discipline and a strong economy under President Clinton produced the large surplus and smaller debt President Bush inherited in 2001, which was deliberately consumed by tax cuts that reduced taxes from 19.8 percent of GDP in 2001 to 17.9 percent today. Despite massive fiscal deterioration under the Bush administration, including a national debt that today stands at $5.4 trillion, up from $3.3 trillion in 2001, the new president is likely to find a federal budget deficit of about 2.8 percent of GDP, and total debt of 38 percent of GDP.

This complicated picture is certainly not rosy. The nominal annual deficit will be $400 billion, the baby boomer generation is beginning to retire, and health costs across the economy are growing unsustainably. Prior to the financial crisis, there was not the imminent sense of urgency that existed in the early 1990s. The challenge will be to balance competing needs to reassert progressive priorities in the context of a serious deficit reduction effort.

There is an added level of complexity, however, because experts disagree on the current budget outlook. Whether the budget is heading towards deficit or surplus depends on both future policy choices and baseline conventions. The Congressional Budget Office baseline, for example, projects a budget surplus in 2012 because it mechanically extends current tax law—assuming that the Bush tax cuts expire at the end of 2010. In contrast, many independent experts use baselines that assume that some tax cuts were intended to be permanent, and therefore project a deficit hovering around 2 percent to 3 percent of GDP instead of surplus in 2012.

All these forecasts focus on the unified budget deficit, which includes the surplus in the Social Security Trust Fund and thus reduces the apparent size of the deficit in the rest of the budget. Excluding Social Security funds from federal budget projections, even the more optimistic CBO baseline projects a deficit continuing for the entire period from now through 2018.

At a minimum, it will be important to set a credible and achievable goal of stabilizing both the deficit and the federal debt as a share of GDP while accommodating targeted investments. Ideally, fiscal policy under the new administration would be on a trajectory to reduce the unified deficit as a percentage of GDP and reduce the need to draw on the Social Security surplus to fund the non-Social Security portions of the budget. It will be important to consult with Congress in setting immediate deficit reduction goals.

The short deadline to develop the 2010 Budget is an added challenge. Stretching the statutory deadlines, recent administrations have sent their initial budgets forward 20 days to 40 days after Inauguration, followed by more detailed documents a few months later. The president's budget is due by law to Congress on the first Monday in February.[7]

Budget Enforcement Rules

In addition to signaling the president's budget and policy priorities, the 2010 budget should communicate the level of his administration's commitment to fiscal discipline and honesty in budgeting. Reinstating effective and meaningful budget enforcement rules is central to any effort to restore fiscal discipline. President Bush and the Republican-led Congress allowed the rules from the Budget Enforcement Act of 1990 to lapse in 2002. Those rules had several key elements: statutory limits on discretionary spending; requirements that any new entitlement spending or tax cut would need a corresponding offset from cuts in mandatory spending or additional revenues; and regular scorekeeping by OMB to monitor the impact of policy changes and trigger any enforcement actions.

Since then, Congress has reinstated some of these mechanisms in annual budget resolutions, such as the "pay-go" commitment of the current Democratic-led Congress, but they are strictly a matter of congressional protocol and are not statutory. As a result, these mechanisms can be waived by Congress and do not involve OMB scoring. With strong leadership, the budget rules of the 1990s were effective, in part because they were established in statute and gave OMB the key role of scorekeeper. The new administration should pursue enactment of similar rules.

Because it will take some time to enact this proposed legislative package, new budget enforcement rules will not be in place in the president's first year in office, but his commitment to the principle will drive the dynamics of the

budget process immediately and in subsequent years. During the transition, OMB should explore the possibility of reaching an agreement with Congress to build a realistic budget baseline and effective enforcement rules. One particularly important challenge will be how to address the status of expiring Bush tax cuts to recognize offsets from the repeal of provisions that benefit the very wealthy. CBO's opinion is viewed by many in Congress and outside observers as critical to validating the legitimacy of the administration's projections.

The key to developing a budget and enforcement rules is the baseline that determines whether new policies would result in savings or added costs compared to a continuation of current policies. The problem is, in many cases it is not clear what constitutes "current policy."

On the spending side, CBO is guided by statute and precedent in making choices. If Congress, for example, passed no additional legislation, then the food stamp program, the Temporary Assistance for Needy Families program, and the State Children's Health Insurance Program would all expire at no budgetary cost. But CBO's baseline assumes that these programs continue—for a total of $870 billion over the next decade.

In contrast, CBO assumes that the tax cuts enacted since 2001 expire because they were passed with sunset provisions, even though those end dates were designed to reduce the fiscal impact of the tax cuts, not because all the cuts were viewed as temporary. If the baseline assumes that a provision will sunset, extending that provision will require offsets if there is a pay-go rule similar to the rule in effect in the 1990s. Yet if a provision is assumed to be permanent, then there will be savings from repealing that provision—savings that can be used to either reduce the deficit or finance a new initiative.

The baseline issue is highly consequential because the expiration or reduction of the Bush tax cuts is frequently described as the source of offsets to finance a progressive agenda. Baseline adjustments should reflect only the continuation of provisions that were designed as permanent policy. But this should not apply to all tax provisions that require attention. One case in point is the Alternative Minimum Tax, which requires legislative action because there is no permanent policy in place to address the problem fully. Similarly, one-time fiscal stimulus tax cuts were not meant to be permanent.

Building a Budget

In a non-transition year, the bottom-up process to build the president's budget takes over seven months. OMB provides budget guidance to the agencies in April and May, which is followed by three months of line-by-line agency reviews through the fall, and then an end-of-year appeal process to the writing of

the documents the President sends to Congress in early February. Compiling a new president's first budget in four weeks is no simple task.

The transition team can make best use of the time available by taking a few key steps. First, it needs to get started on the baseline right after the election. Developing the new president's budget will be much easier if the outgoing OMB team leaves behind a detailed current services baseline for the new team to use as a starting point, as the Clinton team did in 2001. The transition team may need to make revisions, but it should not be necessary or desirable to reopen every aspect of the baseline.

The transition team should also ask the exiting OMB director to make available OMB staff to work with the incoming team immediately after the election, both to prepare a baseline and begin estimating the economic impact of new initiatives. In December 2000, for example, the Clinton administration provided the incoming Bush team with full access to OMB resources literally the day the Supreme Court resolved the contested election.

Since Congress and the Bush administration are unlikely to agree on full year appropriations for the fiscal year beginning October 1, 2008, most of the government will be funded under a temporary or full-year stop gap appropriation that simply extends prior year funding levels. This will not address changing needs and priorities, or natural expansions and contractions of programs that reflect current economic conditions. Moreover, further emergency action may be needed to address the financial crisis and the economic downturn. The new administration, in consultation with Congress, should undertake a review to determine where emergency action, supplemental appropriations, and rescissions are necessary or whether full-year appropriations should be enacted in some cases.

Second, the OMB transition team should start narrowing the short list of initiatives to be highlighted in the budget, and then determine their rough magnitude. Given the short timeframe, the initial budget will not be more than an outline of priorities. But it should leave room for the president's key initiatives, even if only as a placeholder. Without question it will take longer than 20 days to 40 days to present a detailed program for universal health care coverage, but it is nonetheless important for the 2010 budget to include a proxy for the rough cost of this initiative when it is initially presented to Congress.

Third, OMB will need to launch a review of health spending and prices across the economy. Rising federal health care expenditures on Medicare and Medicaid are driven by the rising cost of health care across the economy. Overall government spending on health care is less than half of the total health economy, and it has been rising at roughly the same rate as overall health care

costs. This means that reducing federal spending without addressing the overall problem of rising health care costs would mean reducing the access to health care for the elderly, the disabled, and the poor—the groups whose health care is funded by federal programs. While the new administration can and should undertake cost containment measures within federal programs, it will be impossible to bring federal spending on health care under control in the absence of policies that address health care costs more broadly.

Similarly, OMB needs to begin a review of defense spending, which will determine the pace of proposed deficit reduction as well as the amount of resources available for domestic initiatives. In the short run, the costs of the wars in Iraq and Afghanistan will continue to drive defense spending, but even before those wars there were spending implications stemming from the aging of the last big set of defense acquisitions—implications that are larger now as a result of intensive use.

Finally, OMB needs to start building a rescission list. OMB can illustrate the president's priorities by asking Congress to remove or reduce appropriations in areas that are inconsistent with the administration's agenda, a step that will also help offset the cost of new initiatives. The president's first budget can also demonstrate fiscal discipline and honesty in budgeting by clearly spelling out the implications of its policies. Prior to the current administration, proposals included detailed estimates of budget authority, outlays, and receipts for a full 10 years. The Bush budgets shortened that to five years, and for many programs only one year. While long-term forecasts may not be precisely accurate, a shorter window masks problematic trends. The new administration should include 10-year estimates in its budget proposals.

The First 150 Days

Amid the rush to pull together a credible and insightful 2010 budget for the new administration, OMB will also need to launch a review of Bush-era Executive Orders and lead the effort to either rescind or modify these E.O.s. President Bush issued almost 300 E.O.s during his administration. Some were well-covered in the press, but many others received scant attention. They remain in place and valid until rescinded or modified by a subsequent Executive Order.[8]

A substantial number of Bush E.O.s will require no action—many provided directives that have expired and others simply carried out routine or benign actions. But others clearly address controversial issues, such as the treatment of foreign nationals detained by the U.S. government, which must be harmonized with the new administration's priorities and positions. The greatest challenge

will come in identifying E.O.s with innocuous titles that nonetheless contain social and economic policies on which the new administration differs dramatically from the Bush administration. Some of these involve union membership and dues, the "taking" of property rights, and tort reform.[9]

In addition, OMB needs to begin identifying critical management problems and proposing fixes at federal agencies. Over the past 8 years, inefficient and ineffective federal programs have hit the front pages of the nation's newspapers—from the woefully insufficient response to Katrina to the massive backlog in processing applications for passport renewal. The Clinton administration made progress in heightening awareness within federal agencies of the importance of "customer service" in the broadest sense, effectively managing government programs and increasing the confidence of the American people that their government is working for them. Because there has been a significant erosion of the commitment to effective management and customer service during the Bush administration, it is essential to restore that trust and faith.

Many troubled federal programs can benefit from focused attention and additional resources. Within the first 150 days, OMB should review the status of the most pressing management problems, and then select two or three on which real progress could be made during the first two years of the administration. OMB should select programs that are highly visible and important to the public—such as the Federal Emergency Management Agency, the passport and/or naturalization process, or Transportation Security Administration procedures at airports—along with the 2010 Census, which was added recently to the "High Risk" list of the Government Accountability Office.

A strong OMB deputy director for management, with a solid background in managing large public institutions, should drive this process, with the first task being to convince targeted agencies that this effort is a high priority. That could be a challenge if the new leaders at these other agencies are preoccupied with establishing their own new initiatives rather than confronting the trouble spots they have inherited.

The issue of government performance, however, goes well beyond troubled federal programs. Recent administrations and Congress have repeatedly sought to strengthen the performance and accountability of federal agencies. The Bush administration upped the ante in 2002 when it created the Program Assessment Rating Tool, which requires agencies to complete a questionnaire of at least 25 multi-part questions. OMB then rates each program within the government and posts the results on OMB's website.

The PART process has proved troubling on many fronts. It is extremely time-consuming for the agencies and OMB, and allows considerable inconsis-

tency with respect to the "rating" of the agencies. Some have suggested that PART provides cover to use seemingly objective data in the service of ideological opposition to (or favoritism for) particular government programs. Critics also say the over-emphasis on quantification obscures important values because the one-size-fits-all framework leads to convoluted assessments.

Compounding this problem is Executive Order 13450, issued by President Bush, which created in each agency a "performance improvement officer" with ties (and loyalty) to the White House and OMB rather than to the agency head. It also created a narrowly populated "performance improvement council," which critics contend "has the potential to be the conduit for infusion of political directives and biases into program operation."[10]

The new administration should embrace the idea of holding government agencies accountable through some form of performance-based measurements. The administration should signal that, while it will substantially reform the existing PART program, performance matters.

The First Year

Preparing the president's FY 2011 budget will take many months, beginning with general guidance to the agencies in April or May that sets targets for overall spending levels. Agencies submit their proposed budgets to OMB near Labor Day, OMB gives responses to the agencies before Thanksgiving, and final budget decisions are made by the end of the year so the documents can be written and prepared for transmittal. At each stage, economic assumptions developed by the lead economic agencies (Treasury, OMB, and the Council of Economic Advisers) are used as the basis for projections.[11]

OMB's initial guidance to agencies should include fiscal policy direction and a dollar allocation that reflect the president's objectives. Typically, the so called mid-session review, which is due to Congress in July to update the budget for likely changes in the economy, becomes the basis for making the broad fiscal policy decisions that determine the overall direction of the guidance.

After the agencies present their budget proposals to OMB, there are typically "hearings" at an OMB staff level that eventually lead to a series of budget reviews—called director's reviews—at which agency-by-agency baselines and proposed changes are presented to OMB leadership between Labor Day and November. OMB then returns a "passback" of a revised budget proposal to each agency, usually before Thanksgiving. The details of these proposed budgets reflect the OMB director's consultation with the president and the White House economic team to ensure that the priorities match the administration's

objectives. Agencies can appeal passback levels, either to the OMB director or a policy board that also includes the White House chief of staff and/or the vice president.

OMB in the first year also must find the time and personnel to re-evaluate the government's approach to competitive outsourcing. The federal government has traditionally relied on the private sector for needed commercial services used by the government, such as transportation, food, or maintenance services. OMB Circular A-76, first issued in 1966, was based on the premise that inherently governmental activities should be performed by government employees, but that taxpayers would receive maximum value for their dollars if commercial activities were subject to the forces of competition.

What was introduced as a tool for cost-effective management of the government has unfortunately become a way to significantly limit the government, reduce its accountability, and arguably increase, rather than decrease, the cost of government overall. The Clinton administration, pressured by the Republican Congress, required agencies to intensify their efforts to identify commercial activities that could be privatized. Then President Bush made competitive sourcing a top priority, announcing that both civilian and defense agencies had to subject 425,000 positions to competition with outside entities by 2007. This figure represents half of all federal jobs suitable for competition.

Here, as in the case of performance measurement, the new president should recognize that there is some merit to the underlying policy of competitive sourcing, but that the way the program is currently being implemented requires drastic change. First, it is critical that the line be properly drawn between core government functions that should be carried out only by government employees, such as processing Veterans Administration disability benefit applications that involve discretion, and activities that are truly commercial, such as food services in federal facilities. Second, the process for competitive sourcing should be carried out efficiently, and in a way that is not disruptive to ongoing work.

Most importantly, where outsourcing of commercial activities occurs, the agency should retain meaningful oversight over those activities. Too often, when the federal team loses a competition, the agency's workforce is reduced to the point that it lacks experienced personnel who can effectively monitor the outsourced activities. The results: failure to ensure efficiency, prevent fraud and abuse in outsourced contacts, and hold outside contractors accountable.

This problem grew swiftly in size and scope during the Bush administration because of the steady increase in outsourced contracting, including in areas critical to government policy—from security services and reconstruction in Afghanistan and Iraq, to prison management, to enforcing numerous regulatory

programs. The 44th president should signal early on that he will reverse these developments and put in place sensible competitive sourcing principles.

Office of the United States Trade Representative

Responding to the Changing Global Challenge

IRA SHAPIRO AND RICHARD SAMANS

Against a backdrop of deep public and congressional skepticism about the benefits of global trade and the collapse of the Doha Round, the Office of the United States Trade Representative must formulate a new and different trade policy—one that takes a strategic approach to making globalization more inclusive and sustainable. This new approach must be developed in league with Congress through a major review of our trade policies and the challenges and economic strategies of other nations. This new approach must build on the recent bipartisan agreement to include enforceable labor and environmental standards in new trade pacts and include a new focus on ensuring that trade rules help combat climate change and do not impede the essential global energy transformation.

The new U.S. trade strategy should increase opportunities for cutting-edge U.S. industries in large markets around the world, and it should consider new trade arrangements, including World Trade Organization agreements in key sectors and wide-ranging agreements with those developed countries that share our commitment to open markets, intellectual property protection, labor rights, and environmental and consumer-protection standards. USTR and the new administration should focus intently on our country's slipping trade position in Asia, as well as be part of an overall effort by the new administration to engage vigorously with China to redress the global economic imbalances exacerbated by China's export-led growth and currency arrangements. The United States should take a leadership role in working to ensure that the least developed countries have the increased trade opportunities that the Doha Round has failed to deliver.

The Office of the United States Trade Representative has the responsibility for leadership in the executive branch for the formulation of U.S. trade policy and the negotiation of U.S. trade agreements.[1] USTR, with just over 200 pro-