



U.S. House of Representatives
Washington, DC 20515

October 27, 2021

The Honorable Shalanda Young
Acting Director
Office of Management and Budget
725 17th Street NW
Washington, DC 20503

Dear Acting Director Young:

President Biden announced on September 9, 2021 a nationwide mandate for employers to require their employees to get the COVID-19 vaccine or the employer will risk paying a minimum fine of \$13,000. In doing so, the President ordered an emergency temporary standard (ETS) to be issued as a federal rulemaking by the Office of Information and Regulatory Affairs (OIRA), a division of the Office of Management and Budget (OMB). Alarming, the post of OIRA Administrator remains vacant, without so much as a nominee from President Biden. We write with great concern for the rushed rulemaking process and lack of transparency or time for ample public comment — all this done by a paramount office currently run by unknown, non-Senate confirmed White House staff.

OIRA serves as the central authority for the review of Executive Branch regulations, which affect every aspect of Americans' lives. As such, to increase transparency and responsiveness from this office, Congress made the head of OIRA, or "Administrator," a Senate-confirmed position in statute. At this point in their first years in office, Presidents Trump, Obama, Bush, and Clinton all nominated Administrators who successfully completed Senate confirmation hearings, were confirmed, and were actively serving. It is appalling that this crucial role has not received so much as a look of a nomination by President Biden, a historically late achievement.

Though timing is an issue when it comes to senior-level appointments, somehow this sweeping mandate was drafted a mere five weeks after the President's edict. On October 12th, the Department of Labor (DOL) announced the draft ETS rulemaking was submitted to OIRA for review. In utilizing an ETS and forcing a hasty timeline, the Biden Administration has chosen to forgo the standard rulemaking process which includes a notice and public comment period. This mandate has been drafted and vetted outside the normal process — making the leadership of a government official with the consent of Congress all the more imperative for OIRA.

Even amid a vacuum of leadership, since the start of this Administration, OIRA has issued 179 final rules, whose total cost is \$13 billion. Executive Order 12866, issued by President Clinton, requires a cost-benefit analysis of any rulemaking deemed "economically significant" (if it will have an annual effect on the economy of \$100 million or more). The vaccine mandate rule will almost certainly pass this benchmark — a single business found out of

compliance could face a fine upwards of hundreds of thousands of dollars. We sincerely question how thoroughly the fiscal and unquantifiable consequences were weighed in only a matter of weeks.

This rule will also further strain the labor market, hindering our country's economic recovery and amplifying the lagging workforce crisis. This Administration has directed massive government expansion with little accountability: monthly child payments without work requirements, automatic Medicaid enrollment, the largest permanent increase in food stamps since the program's creation, and stimulus checks all have lowered the cost of unemployment – making it easier to live off the government and *not* work. For many Americans, enhanced unemployment benefits were able to outcompete work entirely. Factor in the highest rate of inflation in four decades and it's no wonder the Biden Administration is 944,000 jobs short of its promises. If the current supply chain crisis being played along both coasts wasn't bad enough, this vaccine mandate is yet another counterproductive policy that will place an additional costly burden on businesses.

It is our Congressional duty to provide judicious oversight over the Executive branch regulatory office and federal rulemaking process. Given the reckless and shortsighted nature of the vaccine mandate and the fact that there is no named appointee for the office tasked with vetting this rule, we urge you to immediately withdraw it. OMB should not proceed with this excessive executive action which has been largely hidden from the eyes of millions of Americans it will affect.

Sincerely,



Jason Smith
Republican Leader
House Committee on the Budget



James Comer
Republican Leader
House Committee on Oversight and Reform

cc: Sharon Block, Acting Administrator, Office of Information and Regulatory Affairs
The Honorable Jason Miller, Deputy Director for Management, Office of Management and Budget