Agencies Told to Cut Regulatory Budgets in Fiscal 2018

By Charles S. Clark

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President Trump’s point person in his push for deregulation has sent regulatory officers at all agencies instructions to submit a budget for fiscal 2018 that produces “a net reduction in total incremental regulatory costs.”

In a Sept. 7 memo, Office of Information and Regulatory Affairs Administrator Neomi Rao called on agencies to plan implementation of Trump’s executive orders on easing regulatory burdens by better controlling regulatory cost allowances. The director of the Office of Management and Budget for next year will identify an allowance for each agency, the memo said, and “no regulations exceeding the agency’s total incremental cost allowance will be permitted in that fiscal year, unless required by law or approved in writing by the [budget] director.”

Agency submissions, as per usual, should be “informed” by their submissions for the fall 2017 regulatory plan and unified agenda, due on Sept. 18. Each agency should include an explanation of how it arrived at its cost allowance consistent with its regulatory policies, Rao added.

The unusual request for targets for cuts in regulatory costs was welcomed by Jitinder Kohli, the managing director at Deloitte Consulting LLP who previously ran regulatory reform for the United Kingdom. “This shows the administration’s commitment to driving an ambitious regulatory reform agenda,” he told Government Executive.

Liberal-leaning opponents of Trump’s agenda reacted with dismay and puzzlement. “The administration is forcing agencies to only consider costs to corporations when issuing new rules or repealing existing ones,” Amit Narang, regulatory policy analyst for Public Citizen, told Government Executive. “This one-sided approach means agencies are basically ignoring benefits when choosing how to protect the public through health and safety regulation. But as Hurricane Harvey showed, the benefits of regulation, and the costs when they’re lacking, are very real.”

James Goodwin, senior policy analyst for the Center for Progressive Reform, said, “It’s not clear what Rao is asking for. We were all expecting her to tell agencies what the regulatory budget would be.” Instead, the administrator said, “Send us your stuff and we’ll come up with the budget together, which is all well and good,” Goodwin added. But to say “We’re expecting a net reduction is not clear. I took it as saying for an agency’s incremental regulatory costs to be negative next year. But in fiscal 2017, it was zero, so by definition it will be negative.”

Everything about this regulatory budget is unusual,” Goodwin said. He called Trump’s executive orders on deregulation more like “a bumper sticker or a stump speech” than something that can be translated into regulatory policy that can be implemented.

Sally Katzen, a former deputy director for management at OMB who headed OIRA during the Clinton administration said, “The memo and the process are without precedent.” When Trump released his first executive order on deregulation just after his inauguration, she said, “most people focused on its requirement for a two-for-one” ratio, ending two rules for
each new one added. “But also contained in that order was a call for a regulatory budget to begin approximately now,” Katzen said.

“That concept has been talked about but never implemented. A lot of people have raised lots of questions about how it’s going to be done, about the mechanics of implementing this, with very little attention to the consequences,” she added. “This memo by the administrator clearly signals this is happening.”

Sofie E. Miller, a senior policy analyst at The George Washington University Regulatory Studies Center, said, “Agencies don’t tend to reduce net regulatory burdens, so in that regard the OMB memo is unusual. However, it is in keeping with the administration’s current regulatory policy and with Executive Order 13771, so it’s not altogether unexpected.” Most likely, “the final regulatory cost caps set by OMB will probably differ from agency to agency in the same way that the fiscal budget does,” Miller added. “It’s possible that some agencies will see slight increases and others decreases.”

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