PSC

May 19, 2023

The Honorable Shalanda D. Young
Director
U.S. Office of Management and Budget
1650 Pennsylvania Avenue, NW
Washington, DC 20503

Dear Director Young:

For the 11th time in just over 13 years, a debt limit crisis threatens the ability of the U.S. Treasury to meet its financial obligations and to maintain the full faith and credit of the U.S. Government. Preparing federal agencies for the possibility of default rests with the Executive Office of the President and specifically with the Office of Management and Budget. As a trade association representing hundreds of government contractors who serve and support every agency in the Federal Government, the Professional Services Council (PSC) offers the following for your consideration and timely action.

PSC's member companies employ roughly one million workers throughout the United States and around the world. These workers and their companies are just as committed to U.S. missions as are federal civilian and uniformed personnel. PSC supports our members and their federal customers by promoting effective, efficient government practices and policies. Trust in government is built on having that government operate well, and appropriate use of contractors is a vital element for improving and maintaining such trust.

No one knows the precise date and time at which the Treasury Department might have insufficient funds to meet that day's obligations, and many are working hard to secure an agreement to extend the debt limit before reaching that point. However, with the consequences of default potentially so severe and far reaching, it is both prudent and essential for OMB to issue clear guidance to federal agencies so they can best prepare for, and deal with, the myriad decisions that will allow government operations to continue and the public trust to be maintained. Accordingly, PSC respectfully offers the following recommendations for your consideration. They focus in part on federal procurement and contracting but extend beyond that to address the overall operating environment of the entire federal government.

<u>What happens under default?</u>

As you know, default occurs when the Treasury's cash balances are insufficient to meet that day's obligations, which could and will vary each day. Default does not mean a zero cash balance, but it does mean that some or all obligations may not be met that day.

The Treasury Department has consistently maintained publicly that there is no method by which some payments could be prioritized over others and that as a result, payments would be made in the order they are due, subject to available cash. However, in prior instances when default seemed a real possibility, government leaders internally discussed plans to prioritize payment on principal and interest for Treasury bills and other financial instruments, with all other payments delayed, deferred, or otherwise adjusted to fit available cash balances. In those instances, we know that the

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Federal Reserve and the Treasury Department prepared the full suite of communications to issue such payment prioritization plans to relevant entities.

For federal agencies and cabinet departments and their supporting contractors, the question would be how to deal with such delays in other outlays. Agencies often feel that they "own" their funds and obligations, and some have communicated to PSC and our member companies that they believe they have sufficient funds to pay their expenses against their obligations. Because this approach fails to recognize that the Treasury Department issues such payments based on available cash balances, we see the clear need for OMB to provide practical guidance to those agency officials on their options under conditions of default.

<u>What should the US Government do if default occurs?</u>

Default would create unprecedented uncertainty regarding the full faith and credit of the United States. Directing the continuation of all government functions and operations, regardless of any payment prioritization process, would send a strong signal of stability, predictability, and consistency. PSC recommends that such guidance include the clearly stated expectation that if default were to occur, then Congress would act rapidly to extend the debt limit and restore full payment capacity. Stating that expectation and issuing such guidance would send the best signal to both domestic and global markets, and contractors are an essential and pervasive element of that signal. For government contractors, this guidance would mean continuation of all contract actions, including ongoing solicitations and evaluations, exercise of contract options, and issuance of new and follow-on contracts and task orders.

<u>How is default fundamentally different from a government shutdown?</u>

Comments in the news media by current and former government officials indicate that many consider default to be similar to a government shutdown, but PSC notes that it is very different in key ways.

A shutdown occurs when there is a lapse in appropriations. That is not the case if this crisis leads to default. Fiscal Year 2023 (FY23) appropriations have been provided for all federal agencies. Under default, however, the government would lack the <u>cash</u> to meet its obligations (e.g., maturing Treasury debt instruments, payroll and Social Security checks, other obligations ranging from rent and utility bills to contractor invoices, etc.).

Therefore, OMB guidance for responding to default must be different than guidance for a lapse in appropriations. PSC believes that agencies should be directed to avoid shutdown actions such as issuing contract stop work orders, furloughs, office closures, designations of essential vs. non-essential personnel, or any other actions unrelated to outlays or payments.

<u>Recommendations</u>

PSC recommends that OMB guidance direct federal agencies to focus on maintaining all operations until the debt limit is adjusted. This guidance should include the following key elements:

1. <u>A statement that default is a temporary condition.</u> Agencies should plan a limited period under which they will operate under conditions of default, as the Congress works out an extension of the debt limit.

2. A clear statement that there is no lapse in appropriations. Since existing appropriations fully fund government operations through the end of FY23, agencies should continue faithfully to execute appropriations and all other statutes.
3. To minimize disruptions from default and maintain confidence in the full faith and credit of the U.S. Government, all federal agencies should continue to operate, including all missions and functions. PSC believes that there is no need for any "essentiality" determination for government actions or personnel, including uniformed personnel, federal civilian employees, contractors, or grant recipients.
4. Any decisions regarding prioritization of payments from Treasury funds available on any given day shall be made by the President. Individual programs, agencies, cabinet departments, or other government entities should make no decisions regarding such prioritization independent of White House guidance.

Contingency planning is needed.

Finally, whether America avoids default or not, debt limit crises now occur nearly every year. The government must undertake prudent contingency planning in order to prepare for future crises.

The absence of such planning at the highest levels of the Executive Branch only results in a plethora of plans at all levels of the federal government—without any agreed-upon goals, priorities, coordination, synchronization, or integration either within the agency or across the government. This is precisely what happened under sequestration, and it took years for agencies to recover.

OMB must organize and lead contingency planning efforts and include contracts and contractors as part of the process, in order to incorporate and integrate their roles in supporting and sustaining federal government missions and operations. PSC stands ready to assist in this process.

As noted above, the government's contracting partners recognize the potentially severe and far-reaching consequences of the government's default on its debts. It is both prudent and essential for OMB to prepare and issue clear guidance to federal agencies, including on key issues of federal procurement and contracting. My thanks for your consideration of these comments. Should you or your staff have any questions or need more information on any of these recommendations, please contact me at policy@pscouncil.org or (703) 875-8154.

Yours respectfully,

David J. Berteau
President & CEO