



DATE: February 27, 2020

TO: Paul Ray, Administrator, Office of Information and Regulatory Affairs

FROM: Ann C. Agnew, Executive Secretary, Department of Health and Human Services

SUBJECT: Executive Order 13891 Extension Request

This memorandum requests an extension for the Department of Health and Human Services (HHS) regarding the deadlines established in subsections (a) and (b) of section 3 of Executive Order (EO) 13891, *Promoting the Rule of Law Through Improved Agency Guidance Documents*. Subsections (a) and (b) address the establishment of a new guidance portal and the rescission of any guidance documents that are not included in it, respectively. The Office of Management and Budget (OMB), through its implementing memorandum, has determined the deadlines for these subsections to be February 28, 2020. We request an extension until August 31, 2020. We base this request both on project time estimates from the contractor as well as the time needed to populate our data.

As you are well aware, HHS is one of the largest federal agencies, administering over a hundred health and human services programs through our operating and staff divisions. A preliminary analysis indicates the Department has thousands of active guidance documents. Although we have been actively working to develop the guidance portal and to identify past guidances for inclusion, this is a significant undertaking. Standing up a new public facing guidance portal that meets OMB and other requirements, such as section 508 of the Workforce Rehabilitation Act and the Individuals with Disabilities Education Act, is a challenge.

We have taken a number of steps to begin implementing this important EO. Most significantly is the creation of the HHS EO 13891 Taskforce to guide our approach to comply with the requirements. The Taskforce is comprised of senior officials and other representatives from the Office of the Secretary and key divisions. It meets weekly, and its immediate focus has been on designing the framework of the guidance portal and identifying the funding for it. From these discussions, we have been able to finalize the portal design and platform, as well as the contract mechanism and contractors needed to build it. Funding has been secured, and a data call was sent to all HHS offices to begin to identify guidance documents for inclusion.

Key subgroups have also been established to oversee and manage these and other tasks. A portal subgroup is meeting weekly and has developed a spreadsheet of key categories of information for agencies to populate and upload to the portal once it is functional. A process subgroup is charged with creating a new internal process to evaluate guidance documents and ensure they adhere to the principles outlined in the EO. A draft process has been developed and is circulating within the Department for feedback. A regulations subgroup has drafted our "guidance documents" regulation, and it is currently in Departmental clearance. We will submit that regulation to OMB for formal review this week.

An extension until August 31, 2020, will enable HHS to build the guidance portal, upload existing guidance documents, and finalize our internal guidance review process. We have identified milestone dates of May 1, 2020, for receipt of agency past guidances for inclusion into the new portal, and June 1, 2020, for the launch of an internal beta version of the portal, which will allow us to start uploading past guidances and begin testing the system. I look forward to continuing to provide your office with updates about our progress.

Thank you in advance for your consideration of this extension request.

A handwritten signature in blue ink, appearing to read "Ann C. Agnew", with a long horizontal flourish extending to the right.

Ann C. Agnew