

February 13, 2017

Dominic Mancini, Acting Administrator
Office of Information and Regulatory Affairs
The Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Dear Dr. Mancini,

We, the undersigned organizations, are writing to request that the Office of Management and Budget (OMB) issue guidance to federal agencies, reminding them that they are required under the Paperwork Reduction Act to give public notice before removing online government information.¹ We are concerned, given recent reports that the US Department of Agriculture (USDA) and other agencies have begun removing information on a number of important topics such as animal welfare, individuals with disabilities, climate change, and more from their websites,² that the public is at risk of losing access to valuable government information.³ We respectfully request your attention be given to this matter and that OMB take immediate action to ensure appropriate public notice is given.

The Paperwork Reduction Act states that any agency must, “provide adequate notice when initiating, substantially modifying, or terminating significant information dissemination products.”⁴ It was widely reported that the Trump Administration directed the Environmental Protection Agency to remove the climate change page from its website, and then later scaled back plans for removal, causing confusion and worry.⁵ There has still been no public notice announcing which information the agency is removing from its website, and the public has no way of knowing which government information is no longer accessible online, or where it may have been archived elsewhere on the agency site. We also do not know whether other agencies received similar orders from the White House or individuals within the agency, and may have already started removing important government information from the web.

Volunteers from government and civil society are working to ensure that online government information is preserved and accessible to the public,⁶ but federal agencies hinder these efforts when they remove public information from the web and do not follow the law, which requires appropriate notice. Instead, agencies must provide the public with advance notice that online information will be

¹ 44 U.S.C. § 3506(d)(3)

² See, e.g., Sunlight Foundation, “Tracking U.S. government data removed from the Internet during the Trump administration,” February 1, 2017: <http://bit.ly/2kniA45>, and Scientific American, “The EPA Has Started to Remove Obama-Era Information,” February 2, 2017: <http://bit.ly/2jlwGMt>.

³ Although the Department of Education has since claimed that the removal of information is due to technical problems, in the absence of clear guidance on information removal, members of the public are unable to determine whether an unreachable web site is experiencing a temporary service interruption or has been permanently removed.

⁴ 44 U.S.C. § 3506(d)(3); the OMB’s Circular A-130 defines “information dissemination product” as: any recorded information, regardless of physical form or characteristics, disseminated by an agency, or contractor thereof, to the public: <http://bit.ly/2ksJF8s>.

⁵ See, e.g., Reuters, “Trump administration tells EPA to cut climate page from website: sources,” January 25, 2017: <http://reut.rs/2kq4hzs>, and Talking Points Memo, “Report: Trump Team Backtracks On Order To Remove EPA Climate Site,” January 25, 2017: <http://bit.ly/2jSosmo>.

⁶ See, e.g., End of Term Presidential Harvest 2016: <http://bit.ly/2iMdrkS>.

removed, including appropriate justification for the removal and instructions on how to access the relevant public information once it is no longer available on the agency's website. In addition, the National Archives and Records Administration (NARA) recently sent a memo to agencies, reminding them that when significant changes are made to agency websites, Federal web records, including data sets, must be scheduled and transferred to NARA for preservation.⁷

It is crucial that agencies comply with the law, so that the public does not lose access to vital government information that helps them protect themselves and hold the marketplace and their government accountable. Failure to give adequate notice of removal could mean that years of government work on important issues are effectively lost to the public. Moreover, providing the required notice will assure compliance with the law, smooth transition issues, ensure public participation, calm fears of censorship, and will reduce litigation costs for both the government and the public interest community.

Thank you for your immediate attention to this matter. If you have any questions, please contact Patrice McDermott, Executive Director of OpenTheGovernment.org, at pmcdermott@openthegovernment.org, 202.332.6736.

Sincerely,

Alliance for Justice
American Association of Law Libraries
American Association of University Women (AAUW)
American Civil Liberties Union
American Political Science Association
American Society of News Editors
Association of Alternative Newsmedia
Association of American Publishers
Association of Research Libraries
Autistic Self Advocacy Network
Bill of Rights Defense Committee/Defending Dissent Foundation
Center for International Environmental Law (CIEL)
Center for Law and Social Policy (CLASP)
Center for Media and Democracy
Citizens for Responsibility and Ethics in Washington
Center on Policy Initiatives
Colorado Fiscal Institute
Consumers Union
Demand Progress
Earthjustice
Economic Policy Institute
Equal Rights Advocates
First Amendment Coalition

⁷ NARA, "Agency Responsibilities for Managing Web Records", December 22, 2016: <http://bit.ly/2llpomS>.

Fiscal Policy Institute
FOI Oklahoma
The FOIA Project
The Franciscan Action Network
Free Government Information
Generation Progress
Good Jobs First
Health Justice Project
Higher Ed, Not Debt
Institute for Agriculture and Trade Policy
Institute for Child, Youth, and Family Policy, The Heller School for Social Policy and Management
Brandeis University
The Institute for College Access & Success
Institute for Science and Human Values
Labor Council for Latin American Advancement
Los Angeles Alliance for a New Economy
National Association for College Admission Counseling
National Center for Transgender Equality
National Consumer Law Center (on behalf of its low income clients)
National Education Association
National Health Law Program
National LGBTQ Task Force
National Organization for Women
National Resources Defense Council
National Security Archive
National Security Counselors
National Women's Law Center
OpenTheGovernment.org
Pesticide Action Network
Project On Government Oversight
Public Citizen
Reinvent Albany
Revolving Door Project
Society of American Archivists
Sunlight Foundation
Society of Professional Journalists
Transactional Records Access Clearinghouse
U.S. PIRG
Veterans Education Success
The Voter Participation Center
Women's Law Project
Women's Voices Women Vote Action Fund