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SUBMITTED TO THE HOUSE COMMITTEE ON OVERSIGHT AND REFORM,
SUBCOMMITTEE ON GOVERNMENT OPERATIONS
HEARING ON THE ADMINISTRATION'S WAR ON A MERIT BASED CIVIL SERVICE

Chairman Connolly, Ranking Member Meadows, and Members of the Subcommittee, thank you for the opportunity to submit testimony regarding President Trump's proposal to merge the Office of Personnel Management (OPM) into the General Services Administration (GSA) and re-assign its regulatory function to the Executive Office of the President.

Citizens for Responsibility and Ethics in Washington (CREW) is a non-profit, non-partisan organization committed to ensuring the integrity of our government institutions, promoting ethical governance, and protecting our democracy from corruption and deceit. I write on behalf of CREW today to express our deep concern that the administration's proposed elimination of OPM would jeopardize the merit systems principles and create opportunities for politicization of the civil service.

OPM was created as part of a wave of reforms intended to restore public trust in government following the Nixon administration's abuses of power during the Watergate scandal. The Civil Service Reform Act of 1978 (CSRA), which created OPM, the Merit Systems Protection Board and the Federal Labor Relations Authority, was designed to protect career civil servants, and the people they serve, from political influence. Though the congressional findings articulated in the CSRA talk of protecting career employees, the purpose underlying these protections has always been to protect the American people against abuses of governmental power in service of partisan ends.

For four decades, the CSRA has served to ensure that career federal employees are hired, fired, evaluated and promoted on the basis of merit rather than political allegiance—and the roots of this merit system date back to the original Civil Service Act of 1883, which began the process of abolishing the spoils system and created OPM's predecessor, the Civil Service Commission. These merit system principles ensure that the public can have confidence that the government is delivering its day-to-day services to Americans objectively and without political favoritism. The Office of Government Ethics, which was once part of OPM, has promulgated regulations emphasizing that the "basic obligation of public service" for executive branch employees is a "responsibility to the United States Government and its citizens to place loyalty to the Constitution, laws and ethical principles above private gain." Partisan political loyalties should

never come before the fulfillment of this responsibility. But that's what could happen if OPM's regulatory authority is pulled into the Executive Office of the President.

Just like the Civil Service Commission before it, Congress determined that OPM needed to be "an independent establishment in the executive branch" with a Senate-confirmed director. Thus, for more than 136 years, the principal guardian of the modern merit system has been housed in an office that stands separate from the Executive Office of the President. This structure discourages partisan interference by establishing a degree of separation between OPM and the White House, and the Senate confirmation process serves as a check on the executive's exercise of regulatory authority over career civil servants. To return that regulatory authority to the Executive Office of the President would break trust with the American people and jeopardize more than a century of reform.

The administration's proposal is antithetical to this critical mission of guarding the merit system and insulating the day-to-day functions of government from the shifting political winds of the moment. By transferring OPM's regulatory authority to the Executive Office of the President, the administration would seize unchecked political control of the personnel policies for the vast majority of non-political civilian positions in government. The administration's proposal to create an Office of Federal Workforce Policy under the Deputy Director for Management at the Office of Management and Budget would inject an undiluted political influence into the merit system. In ways both subtle and overt, the Executive Office of the President could make regulatory changes that erode the legal framework that protects the citizens of this nation against a return to the spoils system.

Such political influence could have immediate consequences in the current highly charged political environment in Washington. It could force employees in essential non-partisan positions to consider the political implications of their assignments, creating pressure for them to put their survival in the civil service before the interests of citizens who depend on their services. It could discourage whistleblowers from contacting Inspectors General and others in official oversight roles. It could ultimately discourage the best qualified and most talented people from seeking to serve their country in the first place, thereby diminishing the effectiveness of government.

As for the absorption of OPM's other functions by GSA, the administration has failed to make the business case for subordinating the work of personnel experts to the oversight of an agency that manages real estate and contracts. The incongruity of merging these functions would likely serve only to add another layer of bureaucracy and decrease the effectiveness of the government's personnel function. OMB Deputy Director and Acting OPM Director Margaret Weichert has not fully explained the transaction costs and service disruptions that would flow

from taking apart an agency and transferring its service lines to another agency. In support of the proposed merger, she testified vaguely that GSA may possess some technological expertise that could help OPM with automation, but GSA already provides technology services to a host of executive branch agencies through shared services agreements. She has not clearly shown that the merger would increase OPM's access to GSA's services or reduce costs to the taxpayers. Ms. Weichert also inconsistently asserted, first, that OPM's staffing level is inadequate for its work and, second, that cost savings could be achieved by reducing OPM's staffing level through attrition following the merger with GSA. This inconsistency highlights the degree to which the administration has failed to think through its proposal. In this case, the devil will most certainly lie in the details.

The administration's proposal poses significant risks to the merit system that protects the nation from a politicized civil service, the administration has not assessed the challenges and costs of its proposal, and the administration has failed to demonstrate that merging two agencies with wholly disparate missions would increase the efficiency of either agency. CREW therefore urges Congress to reject this ill-conceived proposal and keep faith with the American people by refusing to let the civil service be politicized.