

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

CHRISTOPHER R. HIXON, STAFF DIRECTOR
MARGARET E. DAUM, MINORITY STAFF DIRECTOR

August 28, 2018

Mr. Lee Lofthus
Chief Financial Officer
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Mr. Lofthus:

We respectfully write to request information about the Department of Justice's plans to address so-called "use it or lose it" spending at the end of the federal fiscal year. Historically, federal agencies increase spending during the fourth quarter of the fiscal year.¹ Although not a new phenomenon,² use it or lose it spending can lead to waste and abuse of taxpayer dollars. The Committee has previously raised concerns about the potential for waste and abuse the practice presents.³

Last fiscal year, agencies spent a total of \$11.1 billion in the final week of the fiscal year⁴—almost five times higher than the average weekly spending during the rest of the year.⁵ Further, research suggests that "spending that originates in the last week of the fiscal year has 2.3 to 5.6 times higher odds of having a lower quality score."⁶ According to a recent report, with only limited time left in the current fiscal year, eight of the top ten highest-spending federal agencies have not used as much as 40 percent of their budgets.⁷ Some observers have raised concerns that this year's annual spending binge could be the biggest yet.⁸

¹ U.S. Gov't Accountability Office, PSAD-80-67, Government Agencies Need Effective Planning to Curb Unnecessary Year-End Spending (1980), available at <https://www.gao.gov/products/PSAD-80-67> (citing that one of the rationales offered by agency personnel for year-end spending surges is "an implicit philosophy that all available funds must be spent before the end of the fiscal year . . .").

² *Id.*

³ See e.g., *Prudent Planning or Wasteful Binge? Another Look at End of the Year Spending: Hearing Before the Subcomm. on Federal Spending Oversight & Emergency Management of the S. Comm. on Homeland Sec. & Governmental Affairs* 115th Cong. (2017).

⁴ Adam Andrzejewski, *Use It Or Lose It – Trump's Agencies Spent \$11 Billion Last Week in Year-End Spending Spree*, *Forbes* (Oct. 3, 2017), <https://www.forbes.com/sites/adamandrzejewski/2017/10/03/use-it-or-lose-it-the-federal-governments-11-billion-year-end-spending-spree>.

⁵ Jeffrey B. Liebman & Neale Mahoney, *Do Expiring Budgets Lead to Wasteful Year-End Spending? Evidence Federal Procurement*, *American Economic Review*, Vol. 107, No. 11 (Nov. 2017), <https://www.aeaweb.org/articles?id=10.1257/aer.20131296>.

⁶ *Id.* at 3529.

⁷ *Q4 Spending Statistics: Will Q4 FY18 Be the Biggest Spending Spree Industry Has Seen Yet?*, *The Pulse* (Aug. 2, 2018), <https://www.thepulse.govcon.com/the-pulse-content/2018/8/1/q4-spending-statistics-will-q4-fy18-be-the-biggest-spending-spree-industry-has-seen-yet> (using information from datalab.usaspending.gov and FPDS in ascertaining these figures); Press Release, *OMB Must Stop End of Year Spending Splurge*, Americans for Limited Government (Aug. 10, 2018), <https://getliberty.org/2018/08/omb-must-stop-end-of-year-spending-splurge>.

⁸ *Id.*; see also *Get Ready for a Massive Government Spending Spree*, *Nextgov* (Aug. 8, 2018), <https://www.nextgov.com/cio-briefing/2018/08/get-ready-massive-government-spending-spree/150360>.

We respectfully request that you arrange for a staff-level briefing about how the Department of Justice will ensure that its spending in the last quarter of this fiscal year is not wasteful or abusive. Please provide this briefing by September 14, 2018.

The Committee on Homeland Security and Governmental Affairs is authorized by Rule XXV of the Standing Rules of the Senate to investigate “the efficiency, economy, and effectiveness of all agencies and departments of the Government.”⁹ Additionally, S. Res. 62 (115th Congress) authorizes the Committee to examine “the efficiency and economy of all branches of the Government”¹⁰

If you have any questions related to this letter, please ask your staff to contact Elliott Walden of Chairman Johnson’s staff at (202) 224-4751, Sarah Garcia of Ranking Member McCaskill’s staff at (202) 224-2627, Greg McNeill of Chairman Paul’s staff at (202) 224-4343, or Zachary Schram of Ranking Member Peters’ staff at (202) 224-6221. Thank you for your attention to this matter.


Sincerely,




Ron Johnson
Chairman
Committee on Homeland Security
and Governmental Affairs



Rand Paul, M.D.
Chairman
Subcommittee on Federal Spending
Oversight & Emergency Management
Committee on Homeland Security
and Governmental Affairs



Claire McCaskill
Ranking Member
Committee on Homeland Security
and Governmental Affairs



Gary Peters
Ranking Member
Subcommittee on Federal Spending
Oversight & Emergency Management
Committee on Homeland Security
and Governmental Affairs

cc: The Honorable Mick Mulvaney
Director
Office of Management and Budget

⁹ S. Rule XXV(k); *see also* S. Res. 445, 108th Cong. (2004).

¹⁰ S. Res. 62 § 12(e)(1)(A), 115th Cong. (2017).