

United States Senate

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

GABRIELLE D'ADAMO SINGER, STAFF DIRECTOR
DAVID M. WEINBERG, MINORITY STAFF DIRECTOR

April 27, 2020

The Honorable Michael Rigas
Acting Director
U.S. Office of Personnel Management
1900 E Street, N.W.
Washington, D.C. 20415

Dear Acting Director Rigas:

As members of the Homeland Security and Governmental Affairs Committee, we write to you with concerns and questions about the Office of Personnel Management (OPM)'s response to the coronavirus pandemic. Since March 17, 2020, OPM has refused to provide regular and timely briefings to this Committee regarding its work to support the federal workforce. As the agency charged with providing human capital management leadership across the federal government, OPM is responsible for issuing timely guidance to federal agencies and their employees and to harmonize the implementation of that guidance. This is particularly important now in response to the coronavirus pandemic. As states across the country plan to resume normal operations, it is even more critical for OPM to fulfill this role.

A recent article outlines several concerns regarding the lack of information about the agency's efforts to harmonize telework guidance, protect federal employees on the front lines, and to provide guidance to those workers who may be able to return to their normal duty stations as states begin to resume normal operations.¹ While we certainly understand the need to remain flexible during this dynamic situation, the fast-moving nature of this crisis makes it even more important for the agency to be responsive to congressional requests. We must have a clear idea of what OPM's policies are and how OPM is supporting implementation of those policies across the federal government in order to conduct necessary oversight and fully represent our constituents' needs.

With that in mind, we respectfully ask that you review and respond to the following questions by May 4, 2020. We also request that your agency provide a briefing to Committee staff following your response.

1. While OPM has issued extensive guidance to federal agencies and the federal workforce, it is not clear how the agency is working to harmonize this guidance across agencies, leaving federal employees and contractors without clear information about their access to paid leave and telework.
 - Please clearly outline how OPM is working to harmonize the implementation of this guidance across the federal workforce.

¹ Democrats blast Trump team's handling of federal workers in coronavirus crisis, Politico (April 21, 2020) (<https://www.politico.com/news/2020/04/21/democrats-blast-trump-federal-workers-coronavirus-199026>)

- While OPM and the Office of Management and Budget (OMB) have encouraged agency heads to continue to maximize telework flexibility to all telework-eligible employees that the Centers for Disease Control and Prevention has deemed high risk for contracting the novel coronavirus,² it is not clear how agencies have implemented this guidance. Please clearly outline how OPM is overseeing the implementation of telework, paid leave, and operating guidance across the federal government.
 - Certain agencies employ federal workers through Participating Agency Service Agreements, resulting in employees of one agency supervising employees of another. For these specific situations, what guidance and oversight has OPM provided to the agencies to ensure that telework and paid leave policies are coordinated?
 - How has OPM worked with agencies and contractors to protect the health and safety of federal contractors?
 - Amid the significant increase in the number of employees working remotely, how has OPM worked with agencies to ensure that employees are equipped to work remotely using government issued technologies (e.g., laptops or tablets) rather than personal devices that may not meet security standards?
2. We remain concerned that federal employees on the front lines, such as United States Department of Agriculture Agricultural Inspectors, do not have access to adequate Personal Protective Equipment (PPE) from the federal government. On April 15, 2020, Vice President Pence announced that the U.S. Federal Emergency Management Agency was working to provide facial masks to priority infrastructure employees, including food supply and first responders, specifically 20 million masks before April 20, 2020, and adding 6.5 million each and every week. Vice President Pence guaranteed that all of those that work in food supply all the first responders will have access to masks.³ However, in our individual conversations with the agencies they have reported varying policies and procedures and availability of PPE to frontline workers.
- Please outline OPM's efforts to identify frontline federal workers and ensure that all frontline federal workers are protected on the job.
 - Has OPM been in regular contact with the Vice President's supply chain taskforce, Department of Homeland Security, Department of Health and Human Services, OMB, or other agencies as appropriate to ensure that federal workers have access to the critical supplies, including facial masks needed to protect the workforce?
 - Which agencies are providing PPE to their frontline employees? Which are not, or have directed their employees to secure their own PPE?
 - What additional steps does OPM plan to take to ensure that federal employees across the government have access to PPE?

² U.S. Office of Management and Budget, U.S. Office of Personnel Management, Memorandum M-20-23 Aligning Federal Agency Operations with the National Guidelines for *Opening Up America Again* (<https://www.whitehouse.gov/wp-content/uploads/2020/04/M-20-23.pdf>) (accessed April 22, 2020)

³ President Trump, White House Coronavirus Task Force April 15 briefing, *WSLS 10* (April 15, 2020) (<https://www.wsls.com/news/2020/04/15/watch-live-president-trump-white-house-coronavirus-task-force-april-15-briefing/>)

3. Our Committee has heard concerns from federal workers regarding the uneven availability of weather and safety leave across agencies for those employees unable to telework.
 - To what extent is OPM monitoring the availability of weather and safety leave across agencies? Please describe information collected as a result of any such monitoring.
 - What steps has OPM taken to harmonize the availability of this leave across the federal government?
 - What guidance has OPM provided regarding the application of emergency paid sick leave provided under the Families First Coronavirus Response Act and how is OPM monitoring the application of this leave?
 - What steps has OPM taken to harmonize the application of this leave across the federal government?
 - How is OPM monitoring the leave made available to federal contractors?

In addition to the inquiries above, in the FY2020 report issued according to the requirements of the Telework Enhancement Act of 2010, we ask that OPM provide specific analysis on how the COVID-19 public health emergency affected telework eligibility, participation, cost-savings, and achievement of mission goals. In addition, we request that the FY2020 report include an assessment of OPM, OMB, and agency telework policies and their implementation throughout the public health emergency, and revised best practices for telework programs during an emergency.

As the Senate committee with jurisdiction over the civilian federal workforce, we have a responsibility to oversee OPM's handling of this situation. We hope that we can expect much greater cooperation from OPM in the coming weeks and months. While we appreciate the voluntary guidance provided to federal agencies, guidance on its own is not enough, and OPM should be closely monitoring and working with agencies to ensure they are taking every possible step to protect the health and safety of their employees.

Thank you for your attention to this matter, we look forward to your response.

Sincerely,

/s/ Gary C. Peters

Gary C. Peters
Ranking Member
Committee on Homeland Security
And Governmental Affairs

/s/ Thomas R. Carper

Thomas R. Carper
United States Senator

The Honorable Michael Rigas

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/s/ Margaret Wood Hassan

Margaret Wood Hassan
United States Senator

/s/ Kyrsten Sinema

Kyrsten Sinema
United States Senator

/s/ Kamala D. Harris

Kamala D. Harris
United States Senator

/s/ Jacky Rosen

Jacky Rosen
United States Senator

cc: Senator Ron Johnson, Chairman, Committee on Homeland Security and Governmental Affairs