

United States Senate
WASHINGTON, DC 20510

May 5, 2020

Russell T. Vought
Acting Director
Office of Management and Budget
725 17th Street NW
Washington, DC 20503

Michael J. Rigas
Acting Director
Office of Personnel Management
1900 E Street NW
Washington, DC 20415

Dear Mr. Vought and Mr. Rigas,

As Congress considers additional measures to respond to the COVID-19 crisis, we urge you to use your existing authority to address urgent issues facing federal employees and contractors, including measures that would build on steps you have already taken. Many of these workers are on the front lines of the COVID-19 public health emergency, and many more are keeping vital services running and implementing the relief measures recently enacted by Congress. All civil servants and contractor employees deserve our full support now more than ever.

Hazard pay

Many federal workers and contractor employees are putting themselves at increased risk of COVID-19 to work on the frontlines of the public health response and continue essential public-facing services. We appreciate the Office of Personnel Management (OPM) guidance on recruitment, retention, and relocation bonuses in response to COVID-19, and we urge you to build on this by using existing hazard pay authority to provide a 25% increase in basic pay for employees in essential, frontline, or public-facing positions whose jobs cannot be accomplished while maintaining the Centers for Disease Control and Prevention (CDC) social distancing recommendations.¹ The statute provides for hazardous pay differentials for duties involving unusual hazards that are not typical for the job, which certainly describes the current situation for many workers.² We further urge you to issue guidance for agencies to negotiate equitable adjustments with contractors to provide similar hazard pay to contractor employees.

Telework

All federal employees and contractors who can perform their duties remotely should be doing so. We appreciate the guidance that OPM and the Office of Management and Budget (OMB) have issued for agencies to maximize telework, but agencies and workers need further clarification and support. Maximizing telework should generally mean that anyone who is able to telework should be teleworking full time, and agencies should enable telework for as many federal workers and contractor personnel as possible. We also urge you to provide agencies with guidance to provide flexibility so that employees can adjust their schedules without a reduction in pay to accommodate needs to care for children and family members.

¹ OPM. *Recruitment, Relocation, and Retention Incentive Waiver Requests for COVID-19 Pandemic Health Crisis*.

² 5 U.S.C. § 5545(d)

Training and technology should be fully available to enable and support telework, and Congress provided funding in the CARES Act to expand telework at several agencies. Some agencies have significant and long-standing success with managing a remote workforce, and OPM and OMB should facilitate the sharing of those best practices government-wide.

Safety leave

We appreciate OMB's prior guidance encouraging agencies to approve leave for safety reasons for employees at high risk of COVID-19 who are not eligible for telework, and we believe agencies would benefit from clearer guidelines on how to implement this policy. Agencies should receive clear criteria to make greater use of safety leave, including how to weigh costs and benefits in order to reach a determination.

In addition to employees defined as high risk by the CDC, who are referenced in the current OMB guidance on safety leave, federal agencies would benefit from guidance for consistent use of safety leave in other circumstances.³ Safety leave also has positive effects to mitigate community spread within federal facilities and surrounding communities. This is especially true in large federal facilities with many employees and in communities that rely on mass transit.

Personal protective equipment and cleaning supplies

The need for adequate supplies of personal protective equipment (PPE) remains a significant concern for frontline and essential workers across the country, including federal employees and contractors, who have not had access to the PPE as well as cleaning and disinfecting supplies they need to do their job safely. Congress has provided significant resources to address these needs for workers across the country, as well as appropriations for several agencies to procure the safety equipment and supplies needed for their workforces. All federal employees and contractors – like workers across the country – should have everything they need to stay safe on the job.

Pay continuity for contractor employees

Section 3610 of the CARES Act authorizes federal agencies to use their funds to modify contracts in order to reimburse costs incurred by a contractor to provide paid leave to employees who cannot work due to facility closures or other restrictions. This provision enables agencies to keep their contractor workforce in a ready state to return to the job when that becomes possible.

Building on the OMB guidance for how agencies should determine whether and how to utilize this provision, we urge you to encourage agencies to maximize their use of this important new law.⁴ Providing pay continuity mitigates the economic fallout from COVID-19 for contractor employees, their families, and surrounding communities.

Collaboration with workers

We urge you to engage in consultation and collaboration with workers and their unions to develop and implement policies to address the issues covered in this letter and other workplace

³ OMB. *Updated Guidance on Telework Flexibilities in Response to Coronavirus*. March 12, 2020.

⁴ OMB. *Preserving the Resilience of the Federal Contracting Base in the Fight Against the Coronavirus Disease 2019 (COVID-19)*. April 17, 2020.

matters. These workers are bearing the consequences of these policies now, and will continue to be the ones most impacted by the decisions that are made going forward.

Workers who are providing service to the nation have perspectives and ideas that will enable agencies to fulfill their missions effectively and efficiently. For that reason, we also urge you to follow through with conducting the Federal Employee Viewpoint Survey this year to continue collection of this data at a time when it is especially important.

Thank you for your attention to these matters, and we look forward to your reply.

Sincerely,

/s/ Chris Van Hollen
United States Senator

/s/ Susan M. Collins
United States Senator

/s/ Angus S. King, Jr.
United States Senator

/s/ Lisa Murkowski
United States Senator

/s/ Edward J. Markey
United States Senator

/s/ Dianne Feinstein
United States Senator

/s/ Mazie Hirono
United States Senator

/s/ Kamala D. Harris
United States Senator

/s/ Kirsten Gillibrand
United States Senator

/s/ Gary C. Peters
United States Senator

/s/ Joe Manchin III
United States Senator

/s/ Sherrod Brown
United States Senator

/s/ Benjamin L. Cardin
United States Senator

/s/ Kyrsten Sinema
United States Senator

/s/ Sheldon Whitehouse
United States Senator

/s/ Ron Wyden
United States Senator

/s/ Jack Reed
United States Senator

/s/ Richard J. Durbin
United States Senator

/s/ Amy Klobuchar
United States Senator