

Congress of the United States
Washington, DC 20515

February 5, 2025

Mr. Charles Ezell
Acting Director
U.S. Office of Personnel Management
1900 E St NW
Washington, DC 20415

Dear Mr. Ezell,

On January 28, 2025, the U.S. Office of Personnel Management (OPM) sent a so-called “Fork in the Road” email to more than two million federal employees offering the opportunity to take “deferred resignation” by February 6, 2025.¹ Additional documents published by the agency, including a “Frequently Asked Questions” webpage that is updated on an almost daily basis, as well as further communications regarding collective bargaining agreements, have caused confusion and concern among the federal workforce. There is at best, questionable legal authority for the Administration to offer this type of program to federal workers, and it is not contemplated in appropriations law. It should be rescinded immediately.

OPM’s deceptive “offer” has been orchestrated by Elon Musk, a billionaire with significant business interests with the federal government who has used his influence to force out federal officials – including the former FAA Administrator – who have worked to ensure that his companies follow the law.

If federal workers are enticed or coerced to accept this “offer”, the services that average Americans rely on will be undermined. Federal employees inspect nursing homes to give families and caregivers peace of mind. They stem the supply of fentanyl and illegal contraband at our nation’s ports of entry. They approve patent applications to bolster American innovation. They ensure that seniors can access Social Security benefits that they have worked their entire lives to earn, and they work to provide health care services to our nation’s veterans. All of these services and more are at risk. In light of OPM’s recent communications to federal employees, we write to request answers no later than February 7th to the following questions:

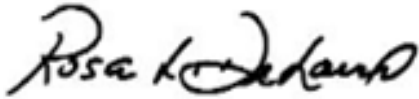
1. OPM began sending emails to all federal employees starting on January 24, 2025 to test “a new distribution and response list”. Please provide documentation detailing OPM’s compliance with the Privacy Act, section 552a of title 5, United States Code, section 522.224 of title 48 of the Code of Federal Regulations, and the E-Government Act of

¹ Fork in the road. (n.d.). U.S. Office of Personnel Management. <https://opm.gov/fork>

2002. In addition, please provide a copy of all contract agreements associated with the development of this distribution list.
2. Please provide a reference for the specific statutory authorities OPM is relying upon to make its deferred resignation offer, given that this widespread communication seems to violate 5 U.S.C. 301-302, which places authority for excusing employees from duty with pay under each individual agency.
 3. Please explain how the deferred resignation offer complies with the Administrative Leave Act of 2016 (P.L.114-315), which places clear limits on the number of days that an employee may be placed on administrative leave to protect taxpayer dollars.
 4. OPM's FAQ document regarding deferred resignation explicitly encourages employees to "find a job in the private sector as soon as you would like to do so." However, federal employees are prohibited by law (5 CFR Part 2635) from engaging in outside employment or activities that conflict with official Government duties and responsibilities. Further, federal employees are required to notify their supervisor of any additional employment in order to further protect from conflicts of interest or ethical violations. Please explain how OPM intends to uphold the law to prevent widespread conflicts of interest and ethical violations.
 5. The Anti-Deficiency Act (31 U.S.C. 1341 and FAR 32.702) prohibits federal agencies from creating or authorizing funds in advance or in excess of a Congressionally-provided appropriation. OPM has, in writing, suggested to employees that they will receive pay and benefits after the end of the current continuing resolution, which expires on March 14, 2025. Please explain how this complies with the Anti-Deficiency Act.
 6. How will OPM implement the Executive Order "Reforming the Federal Hiring Process and Restoring Merit to Government Service"?
 - a. How does the federal hiring plan outlined in Sec. 2 interact with existing government hiring preferences, including for veterans? Is the Administration aware of the existing hiring preferences for veterans?
 - b. How will you be assessing an individual's commitment to "improving the efficiency of the Federal Government, passion for the ideals of the American republic, and commitment to the Constitution"? Please provide any relevant questionnaires for federal employees, beyond any existing competencies or job assessments that agencies already require.
 7. How will OPM implement the EO "Restoring Accountability to Policy-Influencing Positions within the Federal Workforce"?
 - a. In Sec. 6, the new subsection (b) notes the following: "Employees in or applicants for Schedule Policy/Career positions are not required to personally or politically support the current President or the policies of the current administration. They are required to faithfully implement administration policies to the best of their ability, consistent with their constitutional oath and the vesting of executive authority solely in the President." This description makes no mention of the importance of upholding the law. Is it the intent of the Administration to hire employees that disregard the law at the request of the President?
 - b. Please clarify your intended timeline for formal rulemaking under Sec. 4. As of February 5, 2025, no documents have been published in the Federal Register.
 - c. Approximately how many employees per agency do you anticipate will be rescheduled based on the guidance shared on January 27, 2025?

Federal workers take an oath to defend the Constitution and to work on behalf of the American people. OPM's legally dubious and intentionally misleading offer is a disservice to these dedicated men and women, and it should be retracted immediately. Pending that, we ask for a response to these questions by Friday, February 7, 2025.

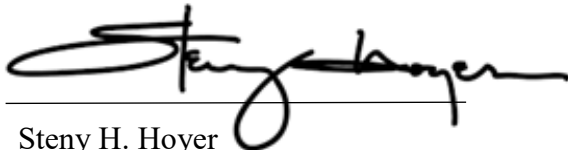
Sincerely,



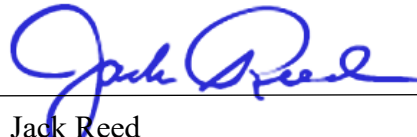
Rosa L. DeLauro
Ranking Member
Committee on Appropriations
U.S. House of Representatives



Patty Murray
Vice Chair
Committee on Appropriations
United States Senate



Steny H. Hoyer
Ranking Member
Subcommittee on Financial Services
and General Government
U.S. House of Representatives



Jack Reed
Vice Chair
Subcommittee on Financial Services
and General Government
United States Senate