



Testimony by Rachel Greszler
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“The Stay-at-Home Federal Workforce:
Another Biden-Harris Legacy”

The Committee on Oversight and Government Reform
U.S. House of Representatives
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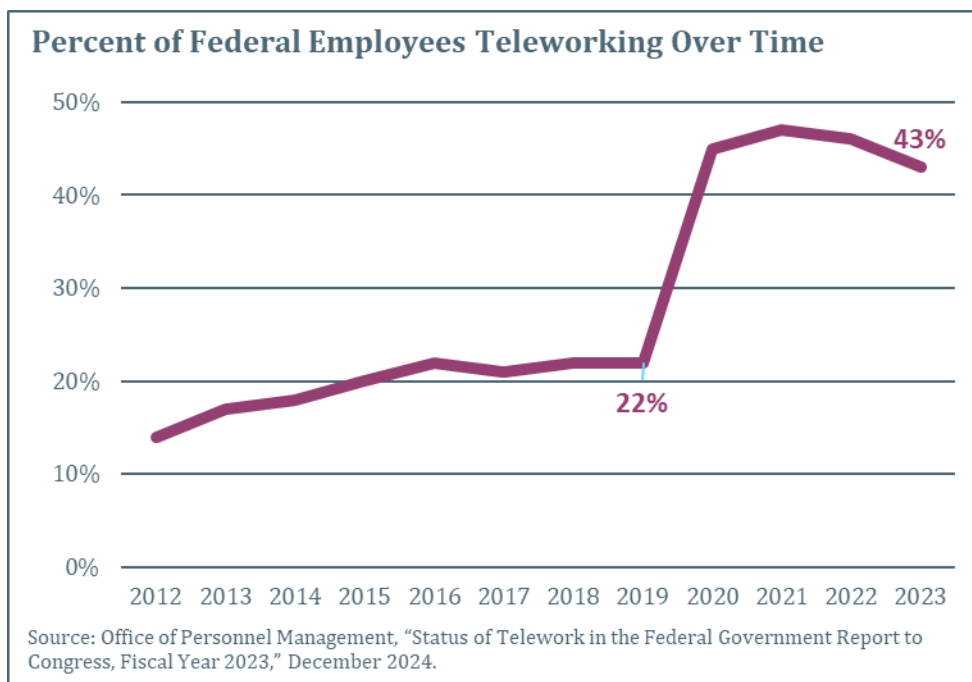
My name is Rachel Greszler, and I am a Visiting Fellow in Workforce at the Economic Policy Innovation Center (EPIC). The ideas I express in this testimony are my own and do not necessarily represent an official position of EPIC.

In my testimony today, I will: (1) review the recent state of telework among federal employees, (2) discuss current telework law and administrative policy, (3) consider how civil service protections and practices can prevent accountability and effective telework, and (4) suggest policies to improve the effectiveness of federal telework.

1. Telework Among Federal Employees

The Office of Personnel Management’s (OPM’s) December 2024 “Status of Telework in the Federal Government Report to Congress” recounts an increase in the percentage of federal employees eligible for telework, from 52 percent in fiscal year (FY) 2022 to 57 percent in FY 2023.¹ This compares to 40 percent of federal employees who were eligible for telework in December 2019.²

Factoring in the percentage of telework-eligible employees who are teleworking (75 percent in 2023), the OPM reports that 43 percent of federal employees participated in telework in 2023. While this is a decline from the high of 47 percent reached in 2022, it is still roughly double the 22 percent of federal employees who teleworked in 2019.



¹U.S. Office of Personnel Management, “Status of Telework in the Federal Government Report to Congress, Fiscal Year 2023,” December 2024, <https://www.opm.gov/telework/history-legislation-reports/status-of-telework-in-the-federal-government-2024.pdf> (accessed January 11, 2025).

²U.S. Office of Personnel Management, “Fedscope: Federal Workforce Data,” database for federal employment and quits, <https://www.fedscope.opm.gov> (accessed January 11, 2025).

It should be noted that while the general trends in reported telework are reliable, the precise amount of telework is unknown, as the OPM collects data in broad categories, such as three+ days per two-week pay period, and agencies use different systems and metrics to track telework, with a small portion relying only on employee surveys.

An April 2024 report from the Congressional Budget Office (CBO) estimated that federal employees were slightly less likely than private sector employees to “usually work from home” (22 percent of federal employees versus 25 percent of their private-sector counterparts), in part because of their need to access sensitive data.³ The big movement back to in-person work began in 2023, and private surveys and analysis suggest that the federal government’s return to offices lags that of the private sector. For example, a study by Owl Labs showed a dramatic drop in hybrid and remote work from 59 percent in 2022 to 33 percent in 2023.⁴

Telework can have both benefits and drawbacks. Potential benefits include saved time and money on foregone commutes, improved time-management, savings on rents if office space is reduced, and increased productivity for hybrid work (but not fully remote work). Drawbacks can include challenges in oversight, reduced collaboration, limited mentorship and career advancement, cybersecurity risks, and reduced quality of products and services.

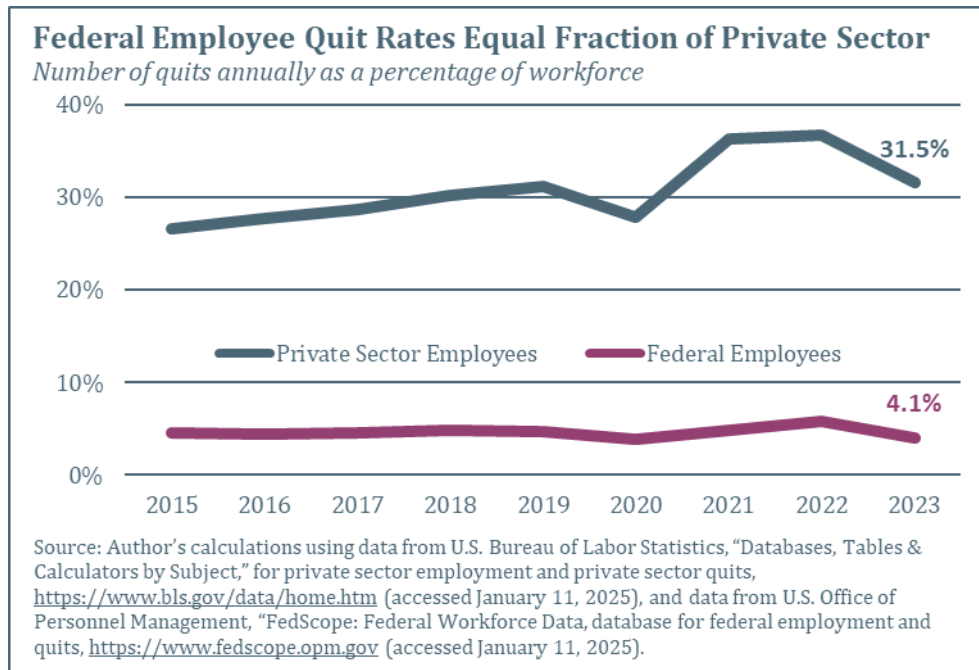
Federal agencies cite telework as a recruitment and retention tool, but the federal government generally outperforms the private sector in attracting applicants and retaining workers. Media reports cite extremely high numbers of job applicants per federal job,⁵ and between 2015 and 2023, the federal employee quit rate averaged 4.6 percent per year, compared to 30.8 percent per year for private sector employees.⁶

³CBO, “Comparing the Compensation of Federal and Private-Sector Employees in 2022,” April 2024, https://www.cbo.gov/publication/60235#_idTextAnchor044 (accessed January 13, 2025).

⁴“State of Hybrid Work 2023, United States,” Owl Labs, undated, <https://owllabs.com/state-of-hybrid-work/2023> (accessed January 13, 2025).

⁵Camille Roberts, “USAJobs: Are You in The Top 1% of 500,000 Applicants?” Career Solutions, undated, <https://cccareersolutions.com/usajobs-1-of-500000/> (accessed January 11, 2025).

⁶Author’s calculations using data from U.S. Bureau of Labor Statistics, “Databases, Tables & Calculators by Subject,” for private sector employment and private sector quits, <https://www.bls.gov/data/home.htm> (accessed January 11, 2025), and data from U.S. Office of Personnel Management, “FedScope: Federal Workforce Data, database for federal employment and quits, <https://www.fedscope.opm.gov> (accessed January 11, 2025).



2. Federal Telework Policy

Congress established a telework policy requirement for executive agencies in its passage of the Telework Enhancement Act of 2010.⁷ That law required the heads of executive agencies to establish a telework policy under which eligible employees may be authorized to work, and to determine employees' eligibility for telework. Congress also required that agencies' telework policies must "ensure that telework does not diminish employee performance or agency operations."

While Congress requires the existence of telework policies and imposes certain requirements and limitations within them, the President's duties under Article II of the U.S. Constitution require him to supervise executive agencies and faithfully execute the laws. Consequently, the President and his appointed agency heads have significant authority over telework policies. Moreover, the Telework Enhancement Act requires that agencies consult with and follow guidance issued by the OPM when establishing and carrying out telework policies.

The Biden Administration's 2021 memo on telework noted that, although the Act requires federal agencies to establish telework policies and determine which positions are appropriate for telework, "it does not mandate telework or confer a legal right or entitlement on an individual employee to participate in an agency telework program."⁸

⁷Public Law No. 111–292, "Telework Enhancement Act of 2010," 111th Congress <https://www.congress.gov/111/plaws/publ292/PLAW-111publ292.pdf> (accessed January 8, 2025).

⁸U.S. Office of Personnel Management, "2021 Guide to Telework and Remote Work in the Federal Government," November 2021, <https://www.opm.gov/telework/documents-for-telework/2021-guide-to-telework-and-remote-work.pdf> (accessed January 8, 2025).

It was initially the policy of the Biden Administration to encourage widespread use of telework across federal agencies, particularly in light of the COVID-19 pandemic. But the surge in telework—from 22 percent of federal employees in 2019 to 47 percent in 2021—created problems for some agencies, with rising complaints about telework compromising the federal government’s ability to provide reliable taxpayer services.⁹ On April 13, 2023, the Biden Administration issued a memorandum calling on heads of agencies to improve their organizational health and performance, including a directive to “substantially increase meaningful in-person work in Federal offices.”¹⁰ An August 2023 email obtained by Axios from President’s Biden’s White House Chief of Staff Jeff Zients told agency heads that it was a priority of the President to increase in-person work, instructing agency heads to “aggressively implement this shift in September and October.”¹¹ Zients’ email explained, “We are returning to in-person work because it is critical for the well-being of our teams and will enable us to deliver better results for the American people.”

Just as the Biden Administration recognized the importance of in-person work and oversaw a significant shift in telework policies over its tenure, the incoming Trump Administration has the right and duty to direct its own telework policies. Specifically, this includes issuing executive orders and using the OPM to issue telework guidance and to consult with agencies over their telework policies, to maximize the efficiency and efficacy of the federal government.

3. How Civil Service Protections and Practices Can Prevent Accountability and Effective Telework

The Pendleton Civil Service Reform Act of 1883 intended to create a merit system that prohibits patronage while also rejecting poor performers. Yet, the current application of civil service protections and practices make it incredibly difficult, costly, and time consuming to effectively discipline or dismiss federal employees.

The overwhelming majority of federal employees perform their jobs diligently and successfully. Not surprisingly, federal employees themselves are dissatisfied with a general acceptance of poor performers. Even when few in number, poor performers hurt workplace morale and burden other employees who are left to pick up their slack. As indicated in the OPM’s annual Federal Employee Viewpoint Survey, federal employees consistently provide the lowest positive response rates to the question: “In my work unit, steps are taken to deal with a poor performer who cannot or will not improve.”¹² Between 2012 and 2021, an average of just 32 percent of federal employees agreed with that statement.¹³ In 2022, the Biden Administration removed this lowest-satisfaction-level question from the survey.

⁹Hans Nichols, “Scoop: W.H. demands proof from Cabinet officials on return-to-office,” Axios, January 19, 2024, <https://www.axios.com/2024/01/19/zients-biden-cabinet-return-to-office> (accessed January 13, 2025).

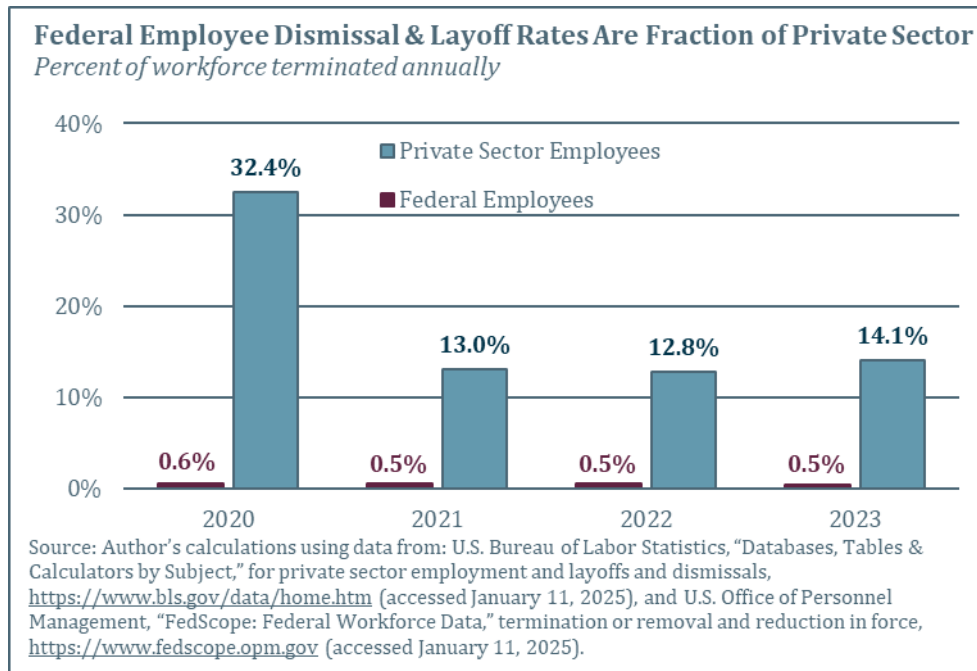
¹⁰Shalanda D. Young, “Memorandum for the Heads of Executive Departments and Agencies,” Executive Office of the President, Office of Management and Budget, April 13, 2023, <https://www.whitehouse.gov/wp-content/uploads/2023/04/M-23-15.pdf> (accessed January 11, 2025).

¹¹Alex Thompson, “Scoop: Jeff Zients emailed cabinet secretaries...” X, August 4, 2023, <https://x.com/AlexThomp/status/1687574175622316033/photo/1> (accessed January 11, 2025).

¹²U.S. Office of Personnel Management, “Federal Employee Viewpoint,” survey results, data available for download at <https://www.opm.gov/fevs/> (accessed January 7, 2025).

¹³Ibid.

While adequate data do not exist to compare the federal government’s performance-improvement efforts to those of private employers, data on rates of dismissals and layoffs provide a comparison of the final straw in performance management. Over the past four years (2020 to 2023) private sector employees were 33 times more likely to be laid off or dismissed than federal employees.¹⁴



In large part, this is because the process to dismiss a federal employee is extremely burdensome and takes a year and a half, on average to complete. The extremely low risk of being fired—even for just cause—fosters poor performance. Although firing federal employees requires a significantly higher bar than restricting telework eligibility, the exceptionally low rate of dismissals among federal employees signals a lack of accountability.¹⁵

Telework is a privilege, not a right. Oversight and accountability are fundamental to effective telework policies, and agencies have a legal obligations to “ensure that telework does not diminish employee performance or agency operations.”¹⁶ Yet, civil service practices that protect poor performers, as well as collective bargaining agreements, can stand in the way of agencies’ ability to fulfill this requirement.¹⁷

For example, a clear indicator that a federal employee’s performance has diminished is if he or she is put on a performance improvement plan (PIP). Developing a PIP is an extensive and time-

¹⁴Source: Author’s calculations using data from: U.S. Bureau of Labor Statistics, “Databases, Tables & Calculators by Subject,” for private sector employment and layoffs and dismissals, <https://www.bls.gov/data/home.htm> (accessed January 11, 2025), and U.S. Office of Personnel Management, “FedScope: Federal Workforce Data,” termination or removal and reduction in force, <https://www.fedscope.opm.gov> (accessed January 11, 2025).

¹⁵Federal employees who are dismissed can file charges with the Equal Employment Opportunity Commission alleging discrimination; the Office of Special Council (OSC) alleging retaliation for whistle blowing; and either with the Merit Systems Protection Board (MSPB) or through its union grievance procedures.

¹⁶Public Law No. 111–292, “Telework Enhancement Act of 2010,” 111th Congress.

¹⁷Ibid.

consuming process for federal managers, and not something taken lightly. Some agencies rightly recognize that a PIP indicates diminished employee performance and warrants removal of telework eligibility. For example, the U.S. Coast Guard’s remote work program states that, “Examples of a decline in performance include placement on a performance improvement plan...”¹⁸ and the program explicitly prohibits telework eligibility for employees who are on PIPs.¹⁹ Many other agencies include similar prohibitions of telework for employees on PIPs.

Other agencies, however, do the opposite and maintain the rights of individuals placed on PIPs to telework eligibility. Among the telework plans and collective bargaining agreements included in the Office of Management and Budget’s “Report to Congress on Telework and Real Property Utilization” in August 2024, at least five agencies included protections similar or identical to that in the United States Patent and Trademarks Office: “Participants who are on a Performance Improvement Plan (PIP) will not be required to change their telework arrangement due to the PIP.”²⁰

Moreover, some agencies have enacted last-minute changes to their collective bargaining agreements to thwart the incoming Trump Administration’s plans to alter current telework policies. In November 2024, the Social Security Administration (SSA) made changes to its 2019 collective bargaining agreement with the American Federation of Government Employees (AFGE) to make it harder for the incoming Administration to change telework policies. Such revisions included: 1) striking out the ability of each Deputy Commissioner to determine telework days, eligible positions, and certain telework policies and adding text requiring each Deputy Commissioner to “adhere to the current number of telework days, eligible positions, and percentage of employees permitted to telework as of the date of this agreement until October 25, 2029. Additionally, as of the date of this agreement until October 25, 2029, each Deputy Commissioner will adhere to current component policies on;” and 2) removing the ability of management to eliminate approved telework days for any employee due to the employee’s performance or due to operational needs.²¹ These provisions apply to roughly 42,000 unionized employees at the SSA, of whom roughly 98.5 percent are eligible for telework.²² These collectively bargained provisions arguably conflict with the law’s requirements and should not be allowed.

Even when collective bargaining agreements and telework policies prevent individuals on PIPs from being eligible for telework, employees might still challenge a decision to remove their telework eligibility if that decision constitutes a disciplinary action.²³ For example, if an employee’s telework eligibility were removed due to inappropriate use of work time or of

¹⁸The White House, “OMB Report to Congress on Telework and Real Property Utilization,” August 2024, p. A1662, <https://www.whitehouse.gov/wp-content/uploads/2024/08/OMB-Report-to-Congress-on-Telework-and-Real-Property.pdf> (accessed January 9, 2025).

¹⁹Ibid., pp. A1725.

²⁰Ibid., pp. A833, A874, A919, A966, A1007, and A1887-88.

²¹Amendments to the 2019 SSA-AFGE National Agreement, enacted on November 27, 2024, and signed by Rich Couture, President of AFGE Council 215 and AFGE SSA General Committee Spokesperson, and by Martin O’Malley, Commissioner of the Social Security Administration.

²²See footnote 28.

²³Neither issuance of a performance improvement plan nor removal of telework eligibility constitute disciplinary actions in and of themselves.

telework equipment, the employee could work with his union to file a grievance arguing that the action was arbitrary, retaliatory, or lacked due process. In addition, and depending on the employee's allegations, he may also be able to file appeals through the Merit Systems Protection Board, the Equal Employment Opportunity Commission, or the Office of Special Counsel. Agency heads and managers who want to avoid costly and time-consuming litigation over decisions to remove telework eligibility are less likely to remove or modify telework arrangements, even if they believe they are diminishing employee performance or agency operations.

Senate Joni Ernst's December 2024 "Out of Office" report exposed some particularly egregious examples of federal employees' telework abuse and taxpayer resources wasted by having to defend agencies' attempts to discipline or dismiss employees for such abuse. For example, the report finds:

"It took years to fire a senior IRS employee who routinely abused his remote work arrangement by playing golf during the workday for nearly a decade. Legal appeals by the "golf ball bureaucrat" dragged on for many years before the court finally ruled firing someone for taking tee time on the taxpayers' dime is par for the course."²⁴

"a Department of Veterans Affairs (VA) manager posted a picture of himself "working" from a bubble bath on social media," with the caption "my office for the next hr."²⁵

"For more than three years, a Social Security Administration (SSA) employee claimed to be teleworking while running his own personal business. He 'routinely performed home inspections for his personal business during the workweek while purporting to 'telework' on official SSA time. He concealed the fact that he was not performing SSA work during official work hours by having his wife and his mother access the SSA computer system and send emails to supervisors to make it appear as though he was online and working.'"²⁶

A general lack of accountability across the federal workforce hurts employee morale, wastes taxpayer dollars, and makes it difficult or impossible to maintain effective telework policies. Moreover, federal collective bargaining agreements can create universal rights to benefits that the private sector treats as earned privileges.

4. Policies to Protect Taxpayers and Promote Efficiency and Effectiveness in the Federal Workforce

Proper stewardship of taxpayers' dollars requires an efficient and effective workforce, and that is not possible without accountability which is inherently lacking. Widespread telework across government agencies is almost certainly hurting the performance of these agencies. Congress

²⁴U.S. Senator Joni Ernst, "Out of Office, Bureaucrats on the Beach and in Bubble Baths but Not in Office Buildings," December 2024, https://www.ernst.senate.gov/imo/media/doc/final_telework_report.pdf (accessed January 13, 2025).

²⁵ Ibid.

²⁶Ibid and "Former SSA Employee Facing Federal Charges for Fraudulent Telework, Emergency Childcare, and Medical Leave Schemes," U.S. Attorney's Office, Southern District of Indiana; April 26, 2024; <https://www.justice.gov/usao-sdin/pr/former-social-security-administration-employee-facing-federal-charges-fraudulent>.

and the Administration should prevent telework from diminishing government operations, and ensure that telework is an earned privilege instead of a blanket right. Potential policies and laws to accomplish that include:

The SHOW UP Act. The Stopping Home Office Work’s Unproductive Problems (SHOW UP) Act of 2023 would require executive agencies to reinstate the telework policies that were in place on December 31, 2019, prior to the COVID-19 pandemic, and would prohibit agencies from enacting new policies unless such policies are certified by the OPM to have a positive impact on the agency’s mission and operational costs.²⁷

Do Not Allow Collective Bargaining Agreements to Obstruct a New President. The President’s duties under Article II of the Constitution require him to supervise and manage executive agencies and faithfully execute the laws. Yet, multiyear collective bargaining agreements signed by appointees of a *prior* President can have the force and effect of preventing the new President from exercising his Article II supervisory authority as he determines necessary to carry out his duties.

Changes to collective bargaining agreements made near the end of the Biden Administration by the SSA and other agencies locked in telework provisions that are directly counter to President-elect Donald Trump’s stated plans to alter or limit current telework practices to improve efficiency in the executive branch.

According to data from the OPM’s FedScope database, 98.5 percent of all SSA employee (58,364 in total) are classified as “eligible to participate in telework,” while only 1.5 percent (863 in total) are classified as “not eligible to participate in telework.”²⁸ For an agency that currently provides monthly benefits to nearly 73 million Americans and operates “approximately 1,230 local field offices and 164 local hearing offices...10 regional offices, 5 National Hearing Centers, 8 centralized processing centers, 5 National Case Assistance Centers, the Appeals Council, and 24 teleservice centers,” having fewer than one employee per location who is not eligible for telework arguably impedes the efficiency and quality of service delivered.²⁹ Changes made to the SSA’s collective bargaining agreement with the AFGE in November 2024 (noted on p. 6) will hinder the incoming Trump Administration from pursuing the telework policies it deems necessary for the efficiency and effectiveness of federal services and the federal workforce.

Current statute should be interpreted in accordance with Article II duties and principles such that a President has the right to derogate from specified provisions of a collective bargaining agreement if he determines that such provisions unduly interfere with his ability to manage the functions and workforce of the executive branch of which he is the head.

If such interpretation is not conferred, Congress should consider preserving the Administration’s authority over federal agencies by amending 5 U.S. Code § 7114(c) of the Federal Service Labor-Management Relations Statute to either limit the duration of collective

²⁷H.R. 139, SHOW UP Act of 2023, 118th Congress, <https://www.congress.gov/bill/118th-congress/house-bill/139/text> (accessed January 10, 2025).

²⁸U.S. Office of Personnel Management, “FedScope: Federal Workforce Data,” employment, March 2024, <https://www.fedscope.opm.gov> (accessed January 11, 2025).

²⁹Social Security Administration, “Understanding Supplemental Security Income Information About Us—2024 Edition,” <https://www.ssa.gov/ssi/text-info-ussi.htm> (accessed January 11, 2025).

bargaining agreements to the duration of the Administration under which they were negotiated, or explicitly require collective bargaining agreements to become subject to renegotiation at the beginning of a new Administration.

Do Not Pay for Unused Office Space. A 2023 report by the Government Accountability Office (GAO) revealed that 75 percent of the agencies surveyed used just 16 percent, on average, of their office space.³⁰ The federal government spends \$8 billion a year to operate, maintain, and lease office space, and about half of the government's leases (covering more than 70 million square feet of space) have expiration dates between 2025 and 2029.³¹ Agencies that use less than a specified percentage, such as 75 percent, of their office space should be required to end their leases of unused space and/or to merge with other federal office spaces that have unused space.

Do Not Use Taxpayer Money to Fund Federal Employee Unions. Currently, federal taxpayers subsidize federal employee unions by providing them with office space and supplies, paying for the time spent on union representation matters and associated travel, and paying federal employees for time spent working for their federal employee unions instead of doing the jobs they were hired to perform—so-called official time.

Senator Joni Ernst's "Out of Office" report highlighted one particularly egregious example of alleged abuse via a whistleblower at the Department of Housing and Urban Development:

"a long-time employee of the department and the former president of the American Federation of Government Employees Local 3138 was allegedly arrested for driving under the influence of alcohol during the workday. She allegedly claimed she was engaged in taxpayer-funded union activities while being held at a county jail in Oklahoma." The individual "remained a HUD employee until she was finally fired for embezzling over \$20,000 of union funds in August 2023."³²

While the true and total amount of taxpayer subsidies to federal employee unions is unknown, it was reported that federal employees spent 3.6 million hours on "official time" in fiscal year 2016, the last full year of the Obama Administration. Those 3.6 million hours are equal to nearly 2,000 full-time federal employees. Multiplied by the average federal employee salary of \$106,400 and another \$56,500 in benefits, the 2016 level of official time would translate into more than \$321 million per year today.³³

The actual figure spent paying federal employees to work for their unions is almost certainly much higher than \$321 million per year and undoubtedly exceeded a billion dollars during the

³⁰Government Accountability Office, "Federal Real Property: Preliminary Results Show Federal Buildings Remain Underutilized Due to Longstanding Challenges and Increased Telework," GAO-23-106200, July 13, 2023, <https://www.gao.gov/products/gao-23-106200> (accessed January 11, 2025).

³¹Government Accountability Office, "Federal Real Property: Actions Needed to Better Assess Office Sharing Pilot's Broader Applicability," September 2024, <https://www.gao.gov/assets/gao-24-106919.pdf> (accessed January 13, 2025).

³²U.S. Senator Joni Ernst, "Out of Office, Bureaucrats on the Beach and in Bubble Baths but Not in Office Buildings."

³³Federal employee salary data are from U.S. Office of Personnel Management, "FedScope: Federal Workforce Data," salary and other data available for download at <https://www.fedscope.opm.gov> (accessed January 11, 2025). Federal employee benefits are from Congressional Budget Office, "Comparing the Compensation of Federal and Private-Sector Employees in 2022," April 2024, https://www.cbo.gov/publication/60235#_idTextAnchor024 (accessed January 11, 2025).

Biden Administration. Yet, the true amounts are currently unknown because, despite prior Administrations—Democratic and Republican alike—collecting and publicly reporting data on official time use for more than a decade, the Biden Administration removed the OPM’s official time webpage, which now displays an error message.³⁴ In response to a letter from Senator Marsha Blackburn (R–TN) and nine other Senators³⁵ inquiring why the page was removed and when the next official report would be published, the OPM cited IT modernization for removing the webpage and said that “annual reports on official time usage are not mandated by statute.”³⁶

In light of the failure of the Biden Administration’s OPM to answer if or when it would produce official time reports, House Committee on Oversight and Accountability Chairman James Comer (R–KY), along with Representatives Pete Sessions (R–TX) and Scott Perry (R–PA) sent oversight letters to 23 federal agencies in June 2024, requesting official time data for FYs 2021 to 2023, and the salaries of all employees using 100 percent official time.³⁷ A response from former SSA Commissioner O’Malley noted that the SSA had 1,030 SSA employees who spent a total of 242,237 hours on official time in FY 2023.³⁸ The letter included an estimated cost of \$15.1 million for employees’ official time.³⁹ The SSA also reported that 14 SSA employees who received \$1,347,379 in total salaries spent 100 percent of their time working for their union in FY 2023.⁴⁰

A January 2025 report from the Institute for the American Worker, “Transparency Needed in the Process of Federal Collective Bargaining,” provides insight into agencies’ expenditures on collective bargaining based on information it received from 28 Freedom of Information Act requests. The need for transparency and regular tracking is evidenced by some of the figures that were provided for years in which the Biden Administration did not require tracking and reporting. For example: the Department of Labor reported a 48 percent drop in spending for employees’ use of official time for the reported years of FY 2022 and FY 2023 compared to FY 2016 and FY 2019; the Department of Transportation reported a 98 percent decline; and the Department of Defense reported a 99 percent decline. Such massive declines are unlikely given

³⁴The previous landing page for official time data and reports—<https://www.opm.gov/policy-data-oversight/labor-management-relations/reports-on-official-time/>—now displays a “404 Page Not Found” error message. Reports from FY 2019 and earlier are not available directly on the landing page but can be found through online searches.

³⁵Marsha Blackburn et al., U.S. Senate, letter to Office of Personnel Management Director Kiran Ahuja, December 14, 2023, <https://www.blackburn.senate.gov/services/files/B8421835-0C5D-484C-8FED-52A3F6E55333> (accessed January 11, 2025).

³⁶Casey Harper, “Biden Administration Defends Decision to Nix Union Accountability Effort,” Center Square, March 26, 2024, https://www.thecentersquare.com/national/article_631e7136-eba5-11ee-9860-e788f95da876.html (accessed January 11, 2025).

³⁷James Comer et al., U.S. House Committee on Oversight and Accountability, letters to multiple federal agencies on official time, June 6, 2024, <https://oversight.house.gov/wp-content/uploads/2024/06/23-Letters-to-Agencies-on-Official-Time.pdf> (accessed January 11, 2025).

³⁸Letter from the Honorable Martin O’Malley, Commissioner of the Social Security Administration to the Honorable James Comer, Chair of the Committee on Oversight and Accountability, July 15, 2024.

³⁹Ibid. Author’s own estimates, based on the average SSA employee salary of \$98,114 in 2024 and the CBO’s estimated \$56,500 in average federal employee benefits, equal about \$204 million in FY 2023 costs for official time. It is likely that the SSA estimates do not include employees’ benefit costs.

⁴⁰Ibid.

the Biden Administration’s “whole of government” approach to promoting unionization.⁴¹ The Institute for the American Worker also provides ample examples of unjustified agency spending on federal employee unions, such as when “a single Veterans Affairs facility allocated half of a hospital wing—over 5,000 square feet—largely for the use of the union president and officials.”⁴²

The disturbing irony of federal employees’ excessive use of official time is that, unlike private sector unions, federal employee unions cannot bargain for compensation.⁴³ Moreover, whereas private sector unions representing blue-collar workers often bargain for workplace safety provisions, most federal employees work in office jobs with few occupational hazards. Consequently, federal employee unions are left spending large amounts of time and taxpayer money on relatively tedious elements of their jobs.

A letter from then-Education and Workforce Committee Chairwoman Virginia Foxx to Acting Department of Labor Secretary Julie Su highlighted some of those tedious negotiations: “While it would be impossible to list all instances of negotiations over federal workplace minutia, examples include the addition of 14 inches in the height of cubicle desk panels (and ‘modesty panels’ extending below the desk); designated smoking areas on an otherwise tobacco-free campus; and federal employees’ right to wear shorts, sweatpants, and spandex at work.”⁴⁴

Neither negotiating such workplace “rights” nor working for a union in any capacity are things that should be done on the taxpayer’s dime.

The No Union Time on the Taxpayer’s Dime Act, introduced by Senator Mike Lee (R-UT) and then-Representative Dan Bishop (R-NC), would end the practice of official time.⁴⁵ Although this would not preclude federal employee unions from thwarting incoming Administrations and driving up taxpayer costs, it would at least require federal unions and their members to foot the bill. When faced with having to fund their own payrolls and having to charge federal employees for the full cost of union activities, federal employee unions would have to prioritize their time and efforts for more valuable activities.

Summary

Despite more than two years since President Biden declared an end to the COVID-19 pandemic, the percentage of federal employees who telework—43 percent in 2023—remains nearly twice as high as before the pandemic. The Biden Administration signaled concerns about widespread

⁴¹Molly E. Conway, “Transparency Needed in the Process of Federal Collective Bargaining,” Institute for the American Worker, January 2025, <https://i4aw.org/reports/transparency-needed-in-the-process-of-federal-collective-bargaining/> (accessed January 13, 2025).

⁴²Ibid.

⁴³A few agencies, such as the Securities and Exchange Commission, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency, have limited exceptions—contained within various acts—to allow their employees to bargain for compensation.

⁴⁴Virginia Foxx, U.S. Congress, letter to Department of Labor Acting Secretary Julie Su, October 9, 2024, https://edworkforce.house.gov/uploadedfiles/10.09.24_costs_of_official_time_and_bargaining_inquiry_dol.pdf (accessed January 11, 2025). Footnotes in original not included in quotation.

⁴⁵S. 4868, “No Union Time on the Taxpayer’s Dime Act,” 118th Congress, <https://www.congress.gov/bill/118th-congress/senate-bill/4868> (accessed January 11, 2025), and H.R. 9191, “No Union Time on the Taxpayer’s Dime Act,” 118th Congress, <https://www.congress.gov/bill/118th-congress/house-bill/9191> (accessed January 11, 2025).

telework compromising the availability and quality of taxpayer-funded government services when directing agencies to substantially increase in-person work, noting that doing so is “critical for the well-being of our teams and will enable us to deliver better results for the American people.”

The President’s duties under Article II of the Constitution require him to supervise and manage executive agencies and faithfully execute the laws. That includes the duty, under the Telework Enhancement Act of 2010, to “ensure that telework does not diminish employee performance or agency operations.”⁴⁶

The current application of civil service protections and practices make it incredibly difficult, costly, and time consuming to discipline or dismiss federal employees, which can contribute to a lack of accountability that inhibits effective telework policy. Some recent actions, such as the Social Security Administration entering into collective bargaining agreement that locks in telework rights through 2029 for the 98.5 percent of its telework-eligible employees, will subvert the incoming Trump Administration’s planned policies and its ability to effectively deliver government services to nearly 73 million Social Security beneficiaries.

The President should have the authority to derogate from any collective bargaining agreement provisions that unduly interfere with his ability to manage the functions and workforce of the executive branch. If needed, Congress can and should clarify such authority by amending the Federal Service Labor-Management Relations Statute (FSLMRS). Proposals such as in the SHOW UP Act would restore 2019 levels of telework. The No Union Time on the Taxpayer’s Dime Act would end the practice of federal employees being paid to spend time working for their unions—including negotiating for provisions and benefits that are counter to taxpayers’ interests—instead of doing the jobs they were hired to perform. Short of *eliminating* official time, the President can and should *restrict* the amount of federal employee time and total taxpayer costs that may be spent on it.

⁴⁶Public Law No. 111–292, “Telework Enhancement Act of 2010,” 111th Congress
<https://www.congress.gov/111/plaws/publ292/PLAW-111publ292.pdf> (accessed January 11, 2025).