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FEW Washington Update November 1-15, 2019

***Federal Government Will Shut Down on November 21
Unless Congress Passes a Budget Agreement***

In Congress:

The House was set to vote Tuesday on a funding stopgap measure to prevent a government shutdown, pushing the deadline for an agreement from **November 21 to December 20.**

House and Senate leaders were unable to reach a deal on a short-term spending deal this weekend as a government shutdown looms on Thursday, according to aides in both chambers.

While neither the White House nor congressional leaders believe a shutdown will occur — especially as House Democrats move forward with an impeachment inquiry against President Donald Trump — nearly two months into the new government fiscal year, no progress has been made on any of the 12 annual spending bills. And this comes despite a highly touted budget agreement hammered out between the White House and Congress this summer. This continuing resolution (CR) has lawmakers entangled in a battle over the parameters for new spending bills, with the largest controversies centered on the proposed border wall.

The impeachment inquiry has been consuming the news and the House of Representatives, since it started a month ago. It has become abundantly clear, lawmakers and aides say, that the House will still be in the throes of their impeachment

inquiry when the funding deadline hits, potentially holding public hearings and moving closer to introducing their articles of impeachment.

Already, impeachment has become the center of the legislative focus on Capitol Hill with lawmakers and aides of the relevant committees: Foreign Affairs, Intelligence and Oversight wrapped up in day-long depositions almost every day of the week and other lawmakers constantly managing questions about the next step of the inquiry. That has left Senate negotiators not just racing toward the November funding deadline, but also faced with the reality that once the House votes to impeach, the all-consuming Senate trial that would follow immediately.

NDAAs:

Senate Armed Services Committee officials released [a “skinny” defense authorization bill](#) plan as lawmakers grow increasingly pessimistic about the possibility of reaching a compromise on a host of disputed issues with the massive military policy bill. It is designed to ensure that a host of necessary items — including numerous military specialties pay authorizations — are passed by the end of the year. *See more [here](#).*

FEW Washington Update – November 15-30, 2019 Tier I

Equal Rights Amendment (ERA):

Virginia Still Has a Chance to Become Number 38!

As a result of the historic vote in Virginia could become a yes vote in early 2020 to become the required 38th state to ratify the ERA. The House Judiciary Committee voted 21-11 to remove the time limit contained in the preamble of the 1972 Equal Rights Amendment (ERA). You can watch the proceedings [here](#). You can also follow the ERA Coalition's social media accounts by visiting, www.eracoalition.org/.

Federal Employee Paid Leave Act (FEPLA):

Congresswoman Rosa DeLauro hosts a roundtable discussion with Members of Congress and key experts to demonstrate why now is the time for paid leave!

The discussion will be held on Tuesday, November 19 from 2:30 p.m. until 3:30 p.m. in 2358-C Rayburn House Office Building.

In addition to a robust discussion with Members of Congress, we will hear from four experts:

- Margie Omero, Principal at the polling firm GBAO
- Marcia St. Hilaire-Finn, small business owner
- Beth Fauteux with Coalition for Social Justice
- Sarah Jane Glynn, Senior Fellow at Center for American Progress

Women of childbearing age were 31 percent more likely to quit federal employment than men of the same age, according to a [2009 report](#) published by the Institute for Women's Policy Research. That study estimated that giving federal workers paid leave would keep 2,650 women from quitting their jobs every year. Government jobs once considered steady and secure, if a bit lower paying, have lost some of their appeal in recent years thanks to a series of government shutdowns.

FEW Washington Update – November 15-30, 2019 Tier II

Equal Employment Opportunity Commission (EEOC):

The Equal Employment Opportunity Commission is preparing to publish a proposed rule that would exempt federal employee union officials from being guaranteed official time to work on EEOC complaints, a move that would upend more than 40 years of precedent and could violate the statute establishing the commission.

According to a [copy of the regulations](#) labeled “DRAFT-DELIBERATIVE” reportedly from officials at the agency, which handles accusations of employment discrimination both at federal agencies and in the private sector, argue that the commission should defer to individual agencies’ collective bargaining agreements regarding whether a union representative should receive official time.

“Since union official time did not exist in statute until 1978, there was no reason for the [Civil Service Commission’s] original EEO procedures to address union official time when it first published the regulation in 1972,” the document states. “However, in its subsequent modifications of the EEO procedures, the commission has not expressly addressed the availability of ‘reasonable’ official time to union officials or how the commission’s official time regulation for EEO proceedings interacts with the [federal labor-management relations statute]. The commission now proposes to amend [the regulations] to exclude union representatives from its grant of reasonable official time for EEO proceedings.”

The EEOC declined to comment, citing the deliberative process.

The draft rule could effectively deny union representatives the right to official time to work on EEO complaints but grant official time to non-union employees for the same purpose, despite the fact that the statute provides broad leeway to a complainant to choose another federal worker as his or her representative during EEOC proceedings.

“If the complainant is an employee of the agency and he designates another employee of the agency as his or her representative, the representative shall have a reasonable amount of official time, if otherwise on duty, to prepare the complaint and respond to agency and EEOC requests for information,” the law states.

Suzanne Summerlin, general counsel for the National Federation of Federal Employees, said the draft rule, if formally proposed, would be a “highly inappropriate” attempt to perform an end-run around established federal employment law.

Efficient Federal Government:

[5 things we learned from the 2019 Federal Employee Viewpoint Survey](#)

The Administration has used the **Federal Employee Viewpoint Survey (FEVS)** as a treasure trove of data to inform, at least in part, planned changes to the civil service.

The Office of Personnel Management (OPM) itself, which administers the survey, provides departments and individual agency offices with more than 30,000 reports detailing their results.

A quick glance at the results shows employee engagement across government remained stable in 2019 with a score of **68 percent**, the same as the previous year.

Here are five additional observations from the 2019 Federal Employee Viewpoint Survey.

Why participation matters

OPM, individual agencies and the Partnership for Public Service have pointed to one question on the FEVS as the most telling of actual employee engagement: “I believe the results of this survey will be used to make their agencies better places to work.”

This question, engagement experts have said, shows employees have confidence in their agency’s leadership to listen to their feedback and then act on it.

If employees see their agency’s commitment to their feedback, it often encourages them to continue sharing their thoughts and opinions.

In 2019, 41 percent of respondents said they believed the results of this survey would be used to make their agencies better places to work.

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Those figures don’t include the Department of Veterans Affairs (VA), the second largest federal agency. VA conducts its [own all-employee survey](#), which includes some of the same questions included on the FEVS.

Nearly 66 percent of the VA workforce, or 256,807 employees, responded to the department’s own survey. Had those employees been included within the FEVS participation total, the government-wide response rate likely would have been higher.

Small performance improvements

The 2019 FEVS shows small, incremental bumps in employees' perceptions of their pay, rewards, promotions and other performance management indicators.

Performance management has been a key priority, if not the key priority for the Trump administration's ongoing efforts to modernize the federal workforce.

And the administration has often cited FEVS data in justifying its proposals to, for example, freeze across-the-board pay raises for federal employees or instruct agencies to review and streamline their performance management and disciplinary policies.

The Trump administration will likely continue to cite these particular results as both a sign that its policy changes are working — and an indication that more needs to be done.

“Some of the 2019 results raise concerns,” Dale Cabaniss, the OPM director, said in a message accompanying the FEVS report. “Respondents continue a five-year trend of reporting concerns about the manner in which poor performance is addressed and, in particular, the perceived lack of proper application of merit principles to promotion and reward decisions.”

An injunction on the president's three workforce executive orders was still in place while OPM administered the 2019 FEVS, so the policies in the EOs technically aren't at play here. But the EOs have been part of the conversation for more than a year, and federal employee unions have said they've seen agencies attempt to implement pieces of them throughout the collective bargaining process.

Still, employees have a relatively negative perception of poor performers within their agencies. When asked for the first time this year what steps they believed their agencies took to manage poor performers, the feedback is telling.

A clear majority, or 56 percent of respondents, said poor performers continue to remain in their work units and continue to under-perform, while 17 percent said poor performers stay in the work unit and do manage to improve.

Roughly 8 percent said poor performers are removed or transferred, and just 2 percent said these poor performers leave. About 17 percent said there are no poor performers in their work units.

Supervisors, feedback earn slightly better scores

Based on the recent FEVS data, federal employees had slightly better perceptions of their interactions with agency supervisors in 2019.

Supervisors across the board earned a slightly better score of 76 percent in 2019, compared with 75 percent during the previous year.

Performance, and the efforts immediate supervisors make to ensure their employees can succeed and improve, have direct ties to engagement, OPM said. “Are there things that workplaces can do to support that diligence and effort that is ultimately performance?” Wells said. “We find that there are a number of things that we can do. We can make sure that we have good relationships with supervisors, for example.”

Employees at small and medium agencies have the best perceptions of their immediate supervisors, according to the data.

But more specifically, the FEVS data shows employees are feeling slightly better about the opportunities they have within their agencies for training or new kinds of work altogether.

Shutdown isn't driving employees out the door

OPM added new questions to the FEVS about the partial government shutdown and its impact on the federal workforce for the first time this year at the request of several agencies.

But OPM said it too was interested in such data, because it only had past assumptions about the shutdown's impact on employee morale and satisfaction.

Though employees impacted by the partial government shutdown said the most recent lapse delayed work, reduced customer service and prompted them to miss deadlines, the experience doesn't appear to be driving many out the door.

A small proportion of FEVS respondents, just 2 percent, said the recent partial shutdown had prompted them to look for another job. The lapse was a factor for another 8 percent of employees who said they were looking for another job.

In total, about 30 percent of the workforce said they were looking for another job.

Feds satisfied with telework

Federal employees appear largely satisfied with their agency's telework program, if they're eligible to use it.

Though several agencies have made changes to their telework policies over the past year, the FEVS data shows no meaningful change in employee participation from 2018 to 2019.

Most federal employees telework sporadically as an unexpected event arises, or they telework one or two days a week, according to the FEVS data.

What the data does show, however, is that participating employees are largely satisfied with their telework programs. The Agriculture and Education Departments and at least one office within the Department of Health and Human Services have limited telework to

one day a week for their employees in recent months. The Social Security Administration recently eliminated telework for its operations employees.

Social Security:

The Congressional Research Service (CRS) has updated “[Social Security: The Windfall Elimination Provision](#),” its publication that discusses what the WEP is, how it works and recent developments affecting it.

The WEP is a modified benefit formula that reduces the Social Security benefits of certain retired or disabled workers who also are entitled to pension benefits based on earnings from jobs that were not covered by Social Security and not subject to its payroll tax. The WEP’s purpose is to remove an unintended advantage or “windfall” that these workers would otherwise receive due to the interaction between the regular Social Security benefit formula and the workers’ relatively short careers in Social Security-covered employment.

The WEP affected nearly 1.9 million people — approximately 3 percent of all Social Security beneficiaries — in December 2018, the CRS reports. State and local government employees covered by alternative staff-retirement systems, as well as most permanent civilian federal employees hired before Jan. 1, 1984 who are covered by the Civil Service Retirement System (CSRS) comprise most of those beneficiaries.

The WEP applies to benefits payable to retired or disabled workers who meet the criteria for its imposition and to their eligible dependents; however, it does not apply to benefits payable to survivors of deceased insured workers. The WEP does not apply to:

- federal employees performing service on January 1, 1984, to whom coverage was extended on that date under the Social Security Amendments of 1983 (P.L. 98-21);
- employees of a nonprofit organization who were exempt from Social Security coverage on December 31, 1983, and who became covered for the first time on January 1, 1984, under P.L. 98-21; and
- workers who attained age 62, became disabled between 1986 and 1989.

Under the WEP, the 90 percent factor in the first bracket of the Social Security benefit formula is reduced to as low as 40 percent. The effect is to lower the proportion of earnings in the first bracket that are converted to benefits.

See more [here](#).

FEW Washington Update – November 15-30, 2019 Tier III

New - Bills Introduced on Violence Against Women

Senate Bill

S.2843 – introduced by Sen. Dianne Feinstein

Senate Judiciary Committee Ranking Member Dianne Feinstein (D-Calif.) today led all 47 Democratic senators in introducing the Senate companion to the House-passed [*Violence Against Women Reauthorization Act*](#).

The bill, which would reauthorize VAWA through 2024, preserves advancements made in previous reauthorizations and includes a number of additional improvements to the current law.

Senator Feinstein said: “We’re introducing the Senate companion to the House-passed *Violence Against Women Reauthorization Act* today because it’s a strong bill and protects women from abuse,” Senator Feinstein said. “The House passed its bill 263 to 158 with 33 Republicans voting yes. There’s no reason that the bill shouldn’t receive the same broad support in the Senate.

Senator Feinstein continued: “I’ve been working with Senator Ernst on a bipartisan path forward and plan to continue those negotiations. Given the overwhelming House vote and the strength of that bill, however, now is the right time to introduce it. Make no mistake, there’s a dire need for this legislation. A quarter of American women will be the victim of physical violence by an intimate partner during their lifetimes. More than a third of all women will be raped, assaulted or stalked. And the numbers are worse for Native American women, of whom some 84 percent will experience violence. Making VAWA stronger will help us lower those tragic numbers.”

Senator Leahy said: “Before the Senate came together six years ago to pass the Leahy-Crapo *Violence Against Women Reauthorization Act*, many skeptics had called for a watered down VAWA bill to make it easier to pass. We instead chose to stand by the survivors and victim services professionals who called for legislation that would protect all victims, regardless of their immigration status, their sexual orientation, or their membership in an Indian tribe. Today those same victim advocates are calling for further improvements to VAWA. I’m proud to again stand with them, and to stand with my dear friend Senator Dianne Feinstein to introduce legislation that has already passed the House with a strong bipartisan vote and would make VAWA stronger than ever before.”

Key provisions in the bill:

- Protects Native American women by improving tribal access to federal crime information databases and reaffirming tribal criminal jurisdiction over non-Indian perpetrators of domestic violence, sexual assault, dating violence and stalking for all federally recognized Indian tribes and Alaskan Natives.
- Explicitly states that grant recipients are allowed to train staff and others on identifying and stopping discrimination against LGBT individuals. Service providers currently remain uncertain about whether they can use grants to train for this.
- Reauthorizes and updates the SMART Prevention Program to reduce dating violence, help children who have been exposed to violence and engage men in preventing violence.
- Expands grants under the Public Health Service Act to support implementation of training programs to improve the capacity of early childhood programs to address domestic violence, dating violence, sexual assault, and stalking among the families they serve.
- Provides services, protection and justice for young victims of violence, including extending the Rape Prevention and Education grant program, addressing bullying of young people, improving grants focused on prevention education for students and expanding relevant training for school-based and campus health centers.
- Preserves and expands housing protections for survivors.
- Provides economic security assistance for survivors by reauthorizing the National Resource Center on Workplace Responses. Protects employees from being fired because they are survivors of sexual assault or domestic violence and protects survivors' eligibility to receive unemployment insurance.
- Enhances judicial and law enforcement tools through reauthorization of the Justice Department's STOP Violence Against Women Formula Program, known as the STOP Program. Authorizes the use of STOP Program grants to expand the use of grant funding for programs focused on increasing survivor, law enforcement and community safety; increase legal assistance for dependent children in appropriate circumstances; and develop and enforce firearm surrender policies.
- Protects the Justice Department's Office on Violence Against Women from being merged or consolidated into any other Justice Department office.

- Helps prevent “intimate partner” homicides by including provisions expanding firearms laws to prohibit persons convicted of dating violence from possessing firearms, prohibiting persons convicted of misdemeanor stalking from possessing firearms and prohibiting individuals subject to ex-partner protective orders from possessing firearms.

House Bill

H.R. 5041- introduced by Rep. Lucy McBath

To amend the Family Violence Prevention and Services Act to make improvements. Rep. Lucy McBath (D-GA) announced the **introduction** of the bipartisan *Family Violence Prevention and Services Improvement Act (FVPSA)*, H.R. 5041, the only federal funding source under the Department of Health and Human Services dedicated to providing domestic violence prevention services.

H.R. 5041 will reauthorize and expand funding for programs focused on protecting survivors and preventing family and domestic violence. Among the provisions for survivors, this bill includes authorizations for emergency housing, counseling, and assistance for those in financial distress. FVPSA was first authorized in 1984 and has provided essential services for survivors and their children. McBath was joined by Representatives Gwen Moore (D-WI), Tom Cole (R-OK), and John Katko (R-NY) in introducing the measure.

“Domestic and family violence affects Americans across the country, and we must do all we can to keep children and families safe. This bill answers the call of state, local, and tribal leadership for more resources and increased funding as we work to end domestic violence.” **McBath said.** “I would like to thank my Republican and Democratic colleagues who have joined me to help prevent violence, protect families, and care for survivors of domestic abuse.”

“For 35 years, the Family Violence Prevention and Services Improvement Act has been a reliable resource for survivors fleeing violent situations by providing life-saving help like emergency housing,” **said Moore.** “Equipping local communities with the right tools is a critical part of addressing our domestic violence epidemic. It’s why I am so proud to support this bipartisan legislation, which will expand upon these efforts.”

“All too often, survivors of domestic violence are without the means to leave their situations, or they are not even aware of the first steps they can take. It is critical that these individuals have the resources needed to find help in dangerous situations,” **said Cole.** “The Family Violence Prevention and Services Improvement Act rightfully provide funds to local, state, tribal governments and territories to further resources and empower survivors. I am proud to join my colleagues in introducing this important legislation.”

“As a former federal prosecutor, I believe we must provide protection and support for the millions of Americans who face domestic violence in our country each year,” **said Katko**. “Since it was first authorized in 1984, the bipartisan Family Violence Prevention and Services Act (FVPSA) have played a critical role in providing vital services to survivors of domestic violence and their children. By reauthorizing this important program, we will ensure local, state, and tribal governments are able to continue protection and support services, allowing survivors and their children to properly recover from violence and abuse by a partner.”

The *Family Violence Prevention and Services Improvement Act*, H.R. 5041, expands resources for survivors and initiatives to end domestic violence by:

- **Increasing the funding authorization level to \$252 million** to respond to low funding levels and provide access to FVPSA funds for programs not currently funded.
- **Expanding support and access for culturally-specific programs.**
 - Culturally-specific organizations are better equipped to address the complex, multi-layered challenges facing victims from racial and ethnic minority populations as they seek services and protections from abuse.
 - Culturally-specific programs often have challenges accessing FVPSA funding at the state and local levels due to the limited funding available and robust competition. This bill authorizes a new culturally-specific program to address these needs and incorporates related funding into the formula itself.
- **Strengthening the capacity of Indian Tribes to exercise their sovereign authority** to more fully respond to domestic violence in their communities and authorizes funding for tribal coalitions and the Alaska Native Women’s Resource Center.
- **Meaningfully investing in prevention.** Brings evidence-informed, community-based prevention initiatives to more communities.
- **Strengthening and updating the National Domestic Violence Hotline and hotline services for underrepresented populations**, including American Indians, Alaskan Natives and Deaf victims of domestic and dating violence.
- **Creating a new underserved population grant program.**
 - The lack of resources and severity of violence is often heightened for survivors living at the margins, such as those living in rural communities, individuals with disabilities, older adults, those identifying with faith-based communities, youth and others. These underserved populations are often reluctant to seek assistance, and when they do, they frequently look for services and support in their immediate communities. This bill creates a grant program for family centers, youth centers, senior centers, community-based organizations or vocational organizations to meet the needs of these survivors.
- **Continuing to support national technical assistance (TA) centers, including the Alaskan Native Tribal Resource Center on Domestic Violence**, and their

work to develop effective policy, practice, research and cross-system collaborations.

- **Updating provisions and definitions** to ensure access to services for all survivors, better align with related programs, and reflect evolving practices in order to provide uniform guidance to those working to end domestic violence.
 - Updates language to reflect current practices and provide a reference to other statutes to ensure common understanding across different federal programs.

FEW receives information from the following sources and contacts: Roll Call, Federal News Network, Politico, The Hill and FCW.