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FEW Washington Legislative Update
November 1-15, 2023

In Congress:

On Wednesday, November 1, 2023, the Senate passed a mini-omnibus appropriations bill allocating millions of dollars in funding to the VA, FDA, FAA, and more. The Senate plans to work on other mini-bus bills over the next few weeks to stave off a potential government shutdown.

A Government Shutdown is Temporarily Averted

On Wednesday, November 15, 2023, the Senate approved in an 87-11 vote a two-tiered stopgap spending measure, sending to President Biden's desk a bill that will keep some agencies funded into January and others into February. The spending package won broad bipartisan support after the House approved it on Tuesday. Senate leadership worked into the night to reach an agreement to quickly pass the bill.

On Thursday, November 2, 2023, the Senate voted 95-1 to confirm Lisa Franchetti as the chief of naval operations, making her the first woman to lead the Navy.

Diversity, Equity, and Inclusion: OMB Preivews Tech Accessibility Guidance

The White House's Office of Management and Budget (OMB) is building guidance on the accessibility of government technology, federal chief information officer Clare Martorana said Wednesday during an accessibility-focused government event at Federal Deposit Insurance Corporation offices in Arlington, Virginia.

“All members of the public and federal employees should have equal access to government regardless of ability,” she said, noting that 61 million adults in the United States have a disability and another 15 million more have a temporary disability.

“They deserve better, and we are up for the challenge and are working hard to deliver better for the American people. Building and sustaining an accessible federal technology environment is an operational imperative, which is why my office is developing policy,” said Martorana.

Accessibility was featured in recent digital experience guidance released by OMB, which directed agencies to follow Section 508 standards, test for accessibility and more.

But the forthcoming guidance expands on that. It has a broader scope, for example, as it applies to internal-facing information and communications technology, in addition to external-facing tech, Martorana told Nextgov/FCW. The last OMB guidance focused specifically on Section 508 dates back to 2013.

“We must ensure that all electronic information and digital services conform to Section 508 standards issued by the U.S. Access Board. Building these considerations in from the beginning are necessary to foster a culture of inclusion and respect,” she said in her event remarks. “It’s 2023. This is an expectation for our government to be able to deliver a digital experience that is on par with consumer brands.”

Although Martorana didn’t give an estimated date for when to expect the guidance, she did say that coming “standards” will be “not just for websites, but for software, for hardware and services, both public-facing and within our own organizations.” The office has been drafting the policy for over a year, she said.

As of February, 12 percent of federal internet and intranet web pages for large agencies covered by the Chief Financial Officers Act didn't conform to the strictures of Section 508 of the Rehabilitation Act, which requires government agencies to give people with disabilities equal access online. Only 69 percent of intranet pages met those standards.

And among the PDFs in top downloads in those CFO Act agencies, only 23 percent conformed to 508 standards, according to a compliance report released by the General Services Administration at the urging of lawmakers on the Senate Committee on Aging, which has been active on accessibility-related issues in government.

Still, accessibility testing is currently inconsistent across agencies, according to that report.

Feds can expect a new focus on measurement in the planned guidance, said Martorana, who also flagged that a forthcoming assessment of agencies' Section 508 efforts governmentwide, required annually by lawmakers as part of the 2023 funding law, will be released by December 29.

"You can't manage what you can't measure. So, in order to ensure we're meeting those standards and providing equal opportunities for all users to interact with digital content in a meaningful way, we must test and measure our work," she said. "Testing digital accessibility involves awareness and training to use various techniques and tools to help us determine how well digital content conforms to accessibility standards and guidelines."

Sourced From: (Government Executive)

FEW IN ACTION – November 1-15, 2023

FEW joins other notable organizations in support of The Healthy Families Act, which would guarantee working people the ability to earn up to seven paid sick days a year to recover from short-term illnesses, access preventive care, care for a sick family member or seek assistance related to domestic violence, sexual assault, or stalking. Workers at places of employment with fewer than 15 employees would earn seven unpaid, job-protected sick days. (see letter here)

FEW submitted a statement for the record during the past Senate Hearing on Paid Leave expressing support for Comprehensive Paid Leave for Federal Employees Act. (see Statement here)

As a reminder, FEW is advocating for the passage of several bills that support FEW's mission that impact women, families and those serving in the military.

- **Comprehensive Paid Leave for Federal Employees Act (H.R. 856/S. 274)**
33 co-sponsors in the House, 11 co-sponsors in the Senate
Converts unpaid caregiving & medical FMLA leave to paid leave for federal employees (parental is currently paid)

- **Paycheck Fairness Act**, (H.R 1600/S. 728), which would modernize and strengthen the Equal Pay Act of 1963 to better combat pay discrimination and close the wage gap, including by protecting workers from retaliation for discussing pay, banning the use of prior salary history, and codifying pay data collection.

- **Healthy Families Act**, **(H.R. 3409/S. 1664),** which would set a national standard for paid sick and safe days to allow workers in businesses with 15 or more employees to earn up to seven job-protected paid sick and safe days each year.

- **FAMILY Act**, **(H.R. 3481/S. 1714),** which would provide workers with up to 12 weeks of partial income when they take time off work for their own serious health condition; the serious health condition of a family member; the birth or adoption of a child; to address the effects of domestic violence, sexual assault, or stalking; and for certain reasons related to military deployment.

Return-to-Office Policies May Bring Potential Federal Workforce Challenges

An already competitive market for talent could get more cutthroat in fiscal 2024 as the Biden administration continues to press for federal employees to return to the office, according to one analyst.

In spotlighting the contracting outlook for the current fiscal year, Kevin Plexico, senior vice president of information solutions for Deltek, said Thursday that the ongoing push to bring employees back to the office is likely to continue through the election year, adding competitive pressure on federal agencies contractors to retain talent as a result.

"This could have a big impact on the competitiveness of government jobs, versus those same people working in the commercial sector, and I think that also poses a challenge for government contractors as well," he said.

The issue of federal return-to-office policies emerged as a hot topic this summer, with White House Chief of Staff Jeff Zients calling for an increase in in-person work in August, and the Office of Personnel Management requiring better data on telework usage last month.

Meanwhile, Sen. Joni Ernst, R-Iowa, accused federal workers in September of committing "fraud" for allegedly teleworking from lower-cost areas while collecting higher locality salaries, but citing a pre-pandemic inspector general's report from 2016 as an example.

This comes as the Government Accountability Office last week called for standardized benchmarks for federal office space utilization after finding that, on average, 17 federal agencies use 25 percent or less of their headquarters office space.

Plexico said that pressure comes as low unemployment and fundamental shifts in the workforce environment raise the stakes on employees jumping ship for the private sector to retain some of the telework benefits they gained during the pandemic.

"There's been a lot of conversation in Congress and in the Biden administration about getting government employees back into the office," he said. "And, of course, if the government employee goes back, you can bet that the contractors that support them are also going to be required to go back into the office. And this, I think, does pose potential issues for the contracting community as you are competing for talent with commercial companies that are maybe more flexible with where people work."

Those challenges come alongside another tenuous budget battle in Congress, as the current continuing resolution is set to expire in two weeks.

With the House and Senate still far apart in each chamber's appropriations legislation and funding levels, Plexico said it was likely that another stopgap bill would emerge, possibly lasting until January or maybe April.

He added that any potential budget deal would likely end up adhering closely to the 2023 Fiscal Responsibility Act in the spring to head off a debt ceiling default.

"I think 2024 is going to tie off roughly to what that debt ceiling legislation agreed to, which would be increases to defense spending and some decreases in civilian agencies, probably to the tune of 5 to 10 percent," he said. "Typically, what we see is the longer the appropriations take to get done, we'll see agencies hold on to their money pretty tightly…and that pushes a lot of money towards the end of the fiscal year."

As a result, the longer Congress takes to come to a budget deal, the more likely agencies' spending will be shallow early and furious by the fourth quarter, something Plexico said fiscal 2024 is shaping up to be.

Sourced From: [(Government Executive)]

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Tier II

OPM Proposes Making it Easier to Approve Some Recruitment and Relocation Incentives

The Office of Personnel Management (OPM) proposed new regulations delegating its authority to waive the caps on recruitment and relocation incentive payments to federal employees and job candidates to the agencies themselves, a move the federal government's HR agency says will ease administrative burdens and accelerate the hiring process.

Currently, federal agencies may provide federal workers and new hires in difficult to fill jobs recruitment and relocation incentives of up to 25 percent of their annual basic pay in exchange for the employee or job candidate agreeing to work at the agency for a minimum service period of up to four years. That means a current or prospective federal employee could earn a maximum of one year's worth of basic pay via the incentives.

Agencies also may request a waiver from OPM to those caps. In situations in which there is a "critical agency needs," agencies may double the rate at which they can pay recruitment and relocation incentives to 50 percent of their annual basic pay per year, although the maximum total amount of an incentive payment remains 100 percent of their annual basic pay.

In a proposed rule published Wednesday November 15 in the Federal Register, the Biden administration proposed shifting the approval of recruitment and relocation incentive cap waivers from OPM to each individual agency. OPM's role in the process would shift to post-approval oversight of agencies' decision-making.

Under the new process, each agency would be required to designate an official who would be tasked with reviewing and adjudicating waiver requests. Additionally, the new regulations would eliminate the minimum service period required to receive an incentive payment. Currently set at six months, OPM argued that removal of the minimum time period would allow short-term, yet still difficult to fill positions such as paid internships to become eligible for recruitment and relocation incentives.

Retention incentive payments would not change under the regulatory proposal, as OPM reported that such changes would require the passage of legislation by Congress.

The reason for the planned change is twofold: First, to make it easier and faster for agencies to hire people in difficult to fill positions; and second, to offload some of OPM's more transactional work and allow the agency to focus more on governmentwide HR policy.

Since the 2004 Federal Workforce Flexibility Act, which established the current recruitment, retention and relocation incentive policy, was implemented in 2005, OPM has approved 15 recruitment incentive waivers for six agencies and 11 relocation incentive waivers for four agencies.

“Permitting agencies to review and approve payment limit waivers at the agency level will reduce the administrative burden on agencies and increase the efficiency of using recruitment and relocation incentives,” OPM wrote. “This will allow agencies to move more quickly in hiring new employees and relocating those who are moving into positions that are likely to be difficult to fill. Such efficiency could be especially helpful in emergency or other critical situations in which recruiting new employees or relocating current employees rapidly is necessary.”

The move is also part of OPM’s ongoing efforts to revitalize and transform itself from an agency focused on transactional compliance to a more forward-thinking role providing policy leadership on governmentwide human capital issues, as envisioned by the National Academy of Public Administration (NAPA) in a 2021 report. Earlier this fall, OPM Deputy Director Rob Shriver touted the importance of that report in the development of the agency’s strategic plan and is referenced often during the deliberative process.

“In its March 2021 report, NAPA recommended that OPM adopt a more decentralized and risk-based approach to executing its transactional approval and oversight responsibilities,” the proposed rule states. “Specifically, NAPA recommended that OPM delegate, to the maximum extent possible, decision-making authorities to agencies, and conduct cyclical reviews to verify that appropriate actions were taken [and] to streamline federal human capital regulations and guidance to reduce administrative burden and promote innovation while upholding merit system principles.”

OPM is seeking feedback and accepting comments on its proposal between now and January 16, 2024.

Sourced From: [(Government Executive)]

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Tier III

The Women’s Bureau Has Spent 100 Years Improving Work For Women – But The White House Wants to Eliminate It

In a rare move, the Republican-controlled House is recommending cutting all funding for the Department of Labor's Women's Bureau, which would shutter the more than 100-year-old federal agency tasked with improving conditions for women at work.

Next year's budget recommendation from the House Labor, Health and Human Services, Education, and Related Agencies Appropriations Bill, which handles funding for the Department of Labor, is the first time in at least a decade that Congress has called for eliminating the bureau, according to the Congressional Research Service (CRS). The companion subcommittee in the Senate, however, has recommended allocating $23 million in funding for the bureau, about the amount it received last year. The two chambers will have to reconcile those recommendations before a final budget is decided. The bill is expected to go to a vote in the House next week before it would come against the Senate's version.

In a letter to the House Appropriations Committee shared exclusively with The 19th, the Democratic Women's Caucus said the decision to eliminate the Women's Bureau would have a "devastating impact" on women and families in the country. The caucus is led by Chair Lois Frankel, Vice Chairs Teresa Leger Fernández and Nikema Williams, and Diversity and Inclusion Chair Sheila Cherfilus-McCormick.

"There is no justification," they wrote in a letter to Chair Robert Aderholt, a Republican from Alabama, and ranking member Rosa DeLauro, a Democrat from Connecticut. "The termination of the Women's Bureau would strip the federal government of the only agency mandated by Congress to represent the needs and interests of working women."

The caucus leaders are asking the House to reconsider the cut and restore funding as the appropriations bills move forward.

Republicans said the House appropriations bill "reins in wasteful bureaucracy and enhances oversight and accountability" as part of a broader effort to cut costs across several agencies. Aderholt did not respond to requests for comment from The 19th about why the Women's Bureau specifically was on the chopping block.

Overall, the recommendations from House Republicans allocates $9.8 billion, 29 percent less in funding to the Department of Labor than it received for fiscal year 2023 and nearly $6 billion less than President Joe Biden requested. The department's labor enforcement agencies, including the Occupational Safety and Health Administration (OSHA), would see an 18-percent reduction. The bill also eliminates the department's International Labor Relations Board, which works to strengthen global labor standards in part by promoting racial and gender equity. It is the largest funder worldwide of programs designed to combat child labor, forced labor and human trafficking.

The choice to cut the Women's Bureau is a significant departure from recent trends. Over the past five years, funding for the Women's Bureau has gradually increased. Last year saw the biggest bump: a nearly 30-percent increase to $23 million, according to CRS.

The most recent threat to the bureau was in 2017, when President Donald Trump proposed slashing funding by 76 percent. Ultimately, the bureau got $13.5 million, an 8-percent increase over the prior year.

For fiscal year 2024, Biden had requested $32.4 million, a funding increase of 41 percent from 2023 for the Women's Bureau.

DeLauro said in a statement that the proposed elimination of the bureau, which has previously had bipartisan support, "is unprecedented and would harm women's ability to advance in the workplace."

"I am fighting against the elimination of the Women's Bureau—and so many other extreme Republican cuts—that will undermine the progress of women and girls," DeLauro said.

The Women's Bureau has been in operation since 1920, when it was founded to create policies and standards to improve conditions for women at work, helping conduct research that formed the basis of early gender-based labor laws and key legislation on fair pay and paid leave.

Today, the agency collects and analyzes data on women at work and runs several grant programs, including the Women in Apprenticeship & Nontraditional Occupations program, which last year awarded $5 million to seven organizations developing apprenticeships for women in industries where they are underrepresented. The 2023 award was the largest in the program's history, with funds going to programs in Alabama, Mississippi, North Carolina, Ohio, Rhode Island, Texas and Washington.

Jocelyn Frye, the president of the National Partnership for Women & Families, said in a statement that the loss of the agency would "mean the loss of a key advocate, and it would limit research and grant making abilities to tackle issues challenging women workers."

The bureau also supports initiatives that work to close the gender pay gap, advance paid leave policies, alleviate the childcare crisis and eliminate workplace harassment. This year, it awarded $1.3 million in grants to organizations working to prevent and respond to gender-based violence and harassment against women workers, and launched the only federal database comparing childcare prices at the county level.

If the agency is ultimately defunded, it could, in theory, be funded again in future years. But it's difficult and costly to restart something once it's been eliminated.

Wendy Chun-Hoon, the director of the bureau, told The 19th in a statement that the bureau “has an important job to do and we're going to continue to fight for policies that safeguard the interests of working women, advocate for equity and economic security for families, and promote quality work environments. For more than 100 years, we have been at the forefront of advocacy for working women,” she said. “We're not going anywhere."

Sourced From: **(Government Executive)**