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1629 K Street NW, Suite 300  
Washington, DC 20006  
Phone: 202/898-0994  
Fax: 202/898-1535

## FEW Washington Legislative Update March 16-31, 2024

### Congress reaches budget agreement:

#### **In Congress:**

On Friday, March 22, The House passed a [\\$1.2 trillion, six-bill budget package](#) with \$825 billion for the Defense Department, roughly \$29 billion more than what Congress enacted in 2023. The legislation adds \$92 million to the \$9.1 billion the Department was requesting for the Pacific Deterrence Initiative. It also includes \$228 million to bolster security in Eastern Europe via the Baltic Security Initiative. The legislation also includes \$300 million for Ukraine via the Ukraine Security Assistance Initiative, and about \$4.6 million for the Defense Department Inspector General to better monitor U.S. aid to Ukraine.

On Saturday, March 23, Congress finally [agreed on a budget for the fiscal year](#) that began nearly six months ago on October 1. Though the vote came two hours after a midnight deadline, there will now be no government shutdown after the Senate approved a second package of six spending bills in a 74-24 vote. Earlier in the day, the House voted 286-134 to pass the bills. The vote came two weeks after Congress approved the first set of six spending bills.

On Thursday, March 29, The Office of Management and Budget issued [new guidance on the government's use of artificial intelligence](#) that is meant to establish safeguards to protect the public when the government uses AI, as well as push agencies to use the technology to their benefit. The new policy is one of the deliverables mandated by President Joe Biden's executive order on AI, signed in October 2023.

## **Diversity, Equity, and Inclusion:**

### **Biden Administration Finalizes First Demographics Data Standard Update in Nearly 30 Years**

The Biden administration on Thursday, March 28, finalized the first update to how the federal government collects data on race and ethnicity since 1997, at once both simplifying the process and increasing the granularity of results.

The Office of Management and Budget (OMB) first began the process of updating the standards for the government's data on race and ethnicity in 2022, citing respondents' longstanding frustration with outdated terminology and identity options that did not align with their own experiences. The federal government first developed the data standards in the 1970s, as agencies sought ways to enforce civil rights laws, and prior to this week, was updated only once in 1997.

As part of the update process, OMB convened a working group of agency experts, solicited more than 20,000 public comments, and conducted dozens of listening sessions both in person and virtually. The resulting standards update, which is scheduled for publication in the Federal Register Friday, takes immediate effect for new data collection efforts, while agencies have until 2029 to update existing surveys and government forms to reflect the new rules and categories on existing programs. That 2029 deadline means that the 2030 U.S. Census will be governed by the new standards as well.

So, what's changing? For one, the government will no longer ask separate questions regarding a respondent's race and ethnicity, instead incorporating "Hispanic or Latino" as part of the core list of "race and/or ethnicity" categories. Splitting survey responses regarding people's race and ethnicities had become a headache for agencies and respondents alike, OMB wrote.

"The working group's final report states that 'since 1980, responses to the decennial census in each subsequent decade have shown increasing non-response to the race question, confusion and concern from the public about separate questions on ethnicity and race,'" OMB wrote. "Results from the 2020 Census showed that 43.5 percent of those who self-identified as Hispanic or Latino either did not report a race or were classified as 'Some Other Race' alone (over 23 million people.)' This increasing non-response and reporting of SOR was one of the primary indicators to OMB that [the existing data standard] was no longer providing options that align with how respondents prefer to identify."

And a new addition to the list of races and ethnicities available for self-reporting in surveys and on government forms is “Middle Eastern or North African.” Previously considered part of the “White” reporting category, the 1997 standards have become out of sync with how most Middle Eastern or North African respondents viewed their own racial or ethnic identity.

Additionally, OMB is updating the actual wording of questions on race and ethnicity to better encourage respondents to select multiple categories if they come from a multiracial or multicultural background. And it is removing a number of antiquated phrases from the definitions of the main categories, such as “Negro” from the Black or African American definition, “Far East” from the Asian definition, as well as “who maintain tribal affiliation or community attachment” from the definition for American Indian or Alaska Native.

OMB said it plans to continue to monitor respondent satisfaction and conduct additional research as part of an effort to update definitions more frequently to keep pace with public consensus on identity.

“In regard to [the working group’s] recommendation, OMB does not include the phrase, ‘Note, you may report more than one group’ in the required question instructions,” OMB wrote. “Additional testing conducted after the working group delivered their final recommendations found that including this phrase had the opposite of the intended effect and resulted in a sizable decrease in the number of respondents selecting multiple responses.”

Federal agencies will have 18 months to develop action plans to govern the implementation of the new data standards, though, when possible, OMB encouraged them to implement the changes “wherever possible” prior to the deadline.

“Based on input from federal agencies, the deadline for compliance with this revised [data standard] is five years after the publication of this notice,” OMB wrote. “[Most] programs will be able to, and should, implement revisions sooner than the five-year deadline for compliance. Certain programs that involve interconnected data across multiple agencies or offices, or that rely on data collected and provided by non-federal entities, may take longer to implement than programs like statistical surveys, but all programs are required to bring their collections into compliance within the five-year implementation period.”

Sourced From: [\(Government Executive\)](#)

## **Transgender Federal Employees Want More Training, Communication Around Gender Inclusion**

One year after the Office of Personnel Management (OPM) released its gender identity and inclusion guidance on Transgender Day of Visibility, transgender federal employees expressed gratitude for the guidance, but also frustration around a lack of communication and training regarding both protections and processes.

They appreciate the protections and the clarity put forth in the guidance; it's far more than existed before. But they also said agencies could do more to communicate about the guidance at both the managerial and employee levels and provide training for managers to handle the technical and legal details facing transgender federal employees.

Two transgender federal employees who have come out since OPM released its guidance, speaking to Federal News Network anonymously out of concern over potential retaliation, said the lack of details about important aspects of transitioning such as changing their names and pronouns, and what protections were in place regarding their transitions remains a significant hole in the implementation of the guidance. Neither had seen or knew about OPM's guidance; one said their agency provided training on sexual identity and gender inclusion when they were hired, but that guidance primarily focused on educating cisgender and heterosexual employees about LGBTQ+ issues.

Some issues include not having a clear transition process, anxieties over bathrooms, the growing need for gender-neutral bathrooms, and avoiding stigmas.

Sourced From: [\(Federal News Network\)](#)

### **FEW Washington Legislative Update – March 16-31, 2024**

#### **Tier I**

#### **Top Women Officials Say There's More Work To Do On Gender Balance In Government Tech**

Women hold top tech and cyber positions in the Biden administration: Clare Martorana, federal CIO; Jen Easterly, director of the Cybersecurity and Infrastructure Security Agency (CISA); and Anne Neuberger, deputy national security advisor, among others.

“We’ve made progress,” said Camille Stewart Gloster, deputy national cyber director for technology and ecosystem security in the Office of the National Cyber Director. But “there’s more work to be done.”

Women make up about 25 percent of federal IT management jobs as of Oct. 2023 — a stat that roughly tracks for women in cybersecurity overall — as compared to roughly 45 percent of the government workforce overall, according to data from the Office of Personnel Management (OPM). Women only represent 31 percent of the government’s STEM workforce.

As of fiscal 2019, only 25 percent of STEM leadership roles were occupied by women, according to a 2022 Equal Employment Opportunity Commission (EEOC) report using fiscal 2019 data.

“I’ve been in a lot of rooms for a really long time and mostly been the only woman,” Clare Martorana told Nextgov/FCW on the sidelines of an event earlier this month.

The problem, the EEOC report notes, starts in schools, where women are less likely to pursue STEM majors than their male classmates.

Stereotypes that women and girls aren’t technical or aren’t interested in STEM, don’t help, said Stewart Gloster, nor do misunderstandings about the cybersecurity field, which includes non-technical jobs, too.

### **Why a seat at the table is not enough**

For those women that do pursue tech careers, many find gender bias waiting. A recent survey of women in STEM found that 73 percent reported gender bias in the last year, including in the form of salary, interactions with coworkers and professional advancement. Many women also have concerns about work-life balance, the lack of mentors in the field and more, the EEOC noted.

“The lack of diversity is a symptom of the lack of inclusion,” said Lynn Dohm, executive director of Women in Cybersecurity, a nonprofit membership organization. It’s working on a study meant to quantify exclusion in cybersecurity.

For women in cyber, the first source of exclusion reported was a lack of respect, followed by career growth and advancement. Women in cyber hit a glass ceiling at about six years, said Dohm.

“You know the colloquial term, ‘Give me a seat at the table?’” said Kemba Walden, former acting national cyber director. “I find that I get a seat at the table, but the table is the wrong shape.”

During her time at the White House, Walden said that she tried to make the workplace more inclusive by bringing her “full self” to work — including her identity as a parent. Morning meetings were after the kids had been taken to school, she said, and she encouraged others to take the space to be their full selves, too.

### **Making strides at CISA**

Elsewhere in the government, CISA is working to meet a goal Easterly set in 2022 to reach gender parity in the cybersecurity workforce by 2030.

Women make up 38 percent of CISA’s own workforce, Easterly told Nextgov/FCW in a statement, “up nearly 2 percent since I issued that challenge.”

“We’ve been diligently working to accomplish this through targeted recruitment efforts, fostering inclusivity in our workplace culture, providing training and mentorship opportunities, and partnering with educational institutions and industry to encourage and support women pursuing careers in cybersecurity,” Easterly said.

Elizabeth Kolmstetter, CISA’s chief people officer, said that 39 percent of the agency’s workforce is remote — something that can be helpful for those with caregiving responsibilities — and 58 percent are on telework agreements.

Beyond CISA’s walls, the agency also has partnerships to field cybersecurity education and training models for teachers and expose girls and women to cyber with organizations like Girls Who Code and the Girl Scouts.

The Office of the National Cyber Director, meanwhile, has been pushing for the removal of college degrees from jobs, in addition to offering internships and apprenticeships, said Stewart Gloster.

“It is essential that all of the perspectives that use the technology we seek to protect are reflected in the security apparatus and in the creation of technology,” she said.

Ultimately, diversity makes teams better, said Walden.

“We’ve got the objective talents that everybody can get in the classroom. It’s that extra filter, that subjective, experience-laden filter, that adds value,” she said. “The more diversity we have in that filter, the more creative, more productive and more effective the solutions are.”

## **Diversity matters**

That goes for diversity beyond and among women, too, said Stewart Gloster.

“Oftentimes, especially in the tech space, white women or Asian women benefit most from the programs [for women in tech],” she said. “And until we think about women of color and their unique needs... we can miss people in the programs because those needs can be different.”

The 2022 EEOC report found that of the women in STEM in government, 66 percent were white; 14 percent were Black; 9 percent were Asian; and 6 percent were Hispanic or Latina. American Indian and Alaska Native and Hawaiian or Pacific Islander women made up less than 1 percent each.

As for how change happens, “we oftentimes always put the responsibility of advocating and educating for oneself on the underrepresented individual,” said Dohm. “We need employers to take a little responsibility here.”

Dohm has a to-do list for employers looking to take that responsibility: pay attention, assess your workplace’s state of inclusion, and make sure career advancement and growth opportunities are clear.

Employers also need to address barriers — like a lack of access to childcare — that keep women from advancing or entering the field at all, said Stewart Gloster, saying that there’s a need for “wraparound services.” The EEOC has also urged federal employers to analyze what barriers hold women up in the workplace.

For now, many of the women that Nextgov/FCW spoke with expressed gratitude about the women in tech who paved the way for them.

“I’ve had nothing but incredible support from women leaders across government. It’s really inspired me, so I want to keep giving back in that way and pass the baton to the next people that are doing this work,” said Martorana. “We are far from done.”

Sourced From: [\(Government Executive\)](#)

## **FEW Washington Legislative Update – March 16-31, 2024 Tier II**

### **MSPB Political Firing Case Raises New Questions on Schedule F**

The Merit Systems Protection Board (MSPB) last week ruled that the Housing and Urban Development Department (HUD) improperly fired a probationary employee over her political affiliation in a case that raises a handful of new questions about Schedule F, were it to be revived under a Republican administration.

In 2017, HUD hired Lois Starkey to serve as a manufactured housing specialist, a GS-14 career position in the department's Office of Manufactured Housing Programs, which sets standards for home design and construction. Though Starkey had extensive job experience related to housing issues, she also had extensive past connections with Democratic politics, including serving as a political appointee in the Carter administration, on her local party committee and managing her husband's campaign for elected office.

But just days later, the Manufactured Housing Association for Regulatory Reform, an industry trade organization, issued the first of multiple complaints regarding Starkey's hire to HUD leadership, calling her an "Obama administration holdover" and donor and describing the hiring as "amazingly ill-considered, offensive and arguably scandalous."

In August of that year, her supervisor tasked her with reaching out to the Oregon Manufactured Housing Association as part of an effort to resolve a dispute between HUD and the Oregon State Administrative Agency. But in September, the state agency complained about her overture to the state trade group and threatened to withdraw from its partnership with HUD.

That December, Starkey's supervisor was reassigned from their GS-15 post to a job "described as comparable to that of an administrative assistant," and the next day Starkey was terminated, despite just one month prior being rated as "outstanding" on her performance appraisal, in which she was described as "an invaluable asset." Starkey appealed her removal to the MSPB, where an administrative judge issued an initial ruling in her favor.

Last week, the MSPB affirmed that initial ruling, finding that reaching out to state trade groups to resolve disputes between HUD and its state agency partners followed existing agency policy for dealing with similar situations and that Starkey was fired despite her supervisor informing agency leaders that she had acted on the supervisor's orders.

The board found that HUD's then-General Deputy Assistant Secretary for Housing (GDASH) Dana Wade, a Trump appointee, ordered Starkey's termination, and found the department's arguments that the decision was not politically motivated.

"The agency asserts that there is no evidence to prove that the GDASH reviewed the appellant's resume, that she was present during the meet-and-greet event in which the



appellant discussed her [political] background or that she reviewed any specific MHARR letter complaining about the appellant's politics," MSPB wrote. "We are not persuaded by the agency's arguments. There is ample evidence that the head of MHARR was quite focused on the politics of the appellant and her second-level supervisor—so much so that he regularly lodged complaints about them that were well known and widely distributed."

Although the case may appear to have only a tenuous connection to the former president's abortive effort to strip federal workers of their due process protections—including MSPB appeal rights—known as Schedule F, insofar as the case involves an employee fired over perceptions that she was a Democratic loyalist accused of leaking information, the decision raises a host of new questions about how Schedule F could be used—and challenged—if revived under a new Republican administration.

First, while much discussion of Schedule F, which would create a new job category within the excepted service for "policy-related" positions, has surrounded the specter of agencies purging—or threatening to purge—political opponents and replacing them with loyalists, little has been said about how it could open a new avenue for industry groups to pressure agencies into firing individual federal regulators for perceived misdeeds.

"The conclusion MSPB reached here is that the dismissal was for political causes, and that an outside pressure in the form of an interest group set that up and created that pressure," said Don Kettl, professor emeritus at the University of Maryland and former dean of its School of Public Policy. "The question of whether or not there are grounds for dismissal for political reasons, and whether or not the pressures come from outside groups could become a more widespread phenomenon—or problem—within the government service."

But the case also highlights a potentially new avenue to challenge Schedule F, or at least to challenge personnel actions taken under that banner. Starkey was still within her probationary period when she was fired, a time in which new hires typically do not have access to most due process protections afforded to tenured federal employees, including MSPB review.

However, the U.S. Code states that a probationer—or any other federal worker whose appeal is "not required [to be heard] by statute" may receive an appellate review of their termination if it is done "for political reasons or marital status."

"One thing that struck me as interesting is first, that the MSPB has ruled on this, for starters, and second, that while Schedule F intends to eliminate MSPB from the appellate chain, those appeals rights are granted in law," Kettl said. "So, if there's a question as to whether an executive order [establishing Schedule F] can override the

law, the answer is almost certainly no; but proponents of Schedule F are more than aware of that and are certainly prepared for that battle.”

Sourced From: [\(Government Executive\)](#)

## **FEW Washington Legislative Update – March 16-31, 2024**

### **Tier III**

#### **The State of Retiring and Retired Women**

Jack Caporal, lead researcher for the Motley Fool, recently shared the following statistics from the Census Bureau and Bureau of Labor Statistics about men and women who live alone:

Retirement-age men have a median income of \$31,220 compared to women, who bring in \$27,350.

On average, men 65 and older earn \$50,490 per year compared to \$40,830 for women.

To better understand how women prepare for and live in retirement, the National Council on Aging (NCOA) conducted a survey in 2022 of Americans ages 50 and older and found that women reported retiring, on average, at age 64.

According to the Office of Personnel Management (OPM), in 2022, 45 percent of the immediate optional retirements were women and the average age at retirement was 63.3. Half of retired women expect to live 21 or more years in retirement, which is consistent with data from the Labor Department.

The types of concerns women have for retirement are similar whether they are retired or preparing for retirement. The size of those concerns is different, however, with women who are working or unemployed being more concerned than retired women primarily about the adequacy of their retirement savings.

Women’s top concerns include the increasing cost of health care, being able to afford long-term care, caregiving needs they may have, and outliving assets and savings. This is consistent with a recent study that finds large swaths of Americans have retirement concerns and are pessimistic about their ability to be financially secure in retirement. The NCOA study found that women who are retired and women who are preparing for retirement are significantly more concerned than men with outliving their assets and

savings, their own caregiving needs, and being able to cover the cost of an emergency expense requiring \$2,000.

What can be done for federally employed women to catch up and have a financially comfortable life after retirement?

**Saving and investing aggressively in the TSP.** This means:

Striving to increase the percentage of income invested each time there is a salary increase. Five percent should be the minimum so that the full agency match is added to your account. The 2024 annual elective deferral limit is \$23,000 and the catch-up contribution limit is \$7,500. If you are turning 50 in 2024 or older than 50, you may make catch-up contributions.

Learn how to invest for the long-term. Marie Curie said, “Nothing in life is to be feared, it is only to be understood. Now is the time to understand more, so that we may fear less. Be less curious about people and more curious about ideas.” One way to begin educating yourself on how to invest for retirement is by checking out the TSP website to learn more about [investing strategies](#). The G Fund isn’t necessarily “safe,” but it may never have a negative return. There’s always risk associated with investing. Creating an investment strategy should be based on your risk tolerance and your time horizon.

Delaying filing for Social Security to receive a higher monthly benefit for the rest of your life. This can create a hedge against the risk of longevity. Social Security and your federal CSRS or FERS retirement benefits are payable for as long as you live. Learn how much [Social Security benefits will increase](#) between ages 62 and 70.

Plan on working part-time in retirement which will make it easier to delay Social Security and delay distributions from your TSP account to allow for more growth. Read about the [“snowball effect”](#) of investing.

Even better, how about owning a business in retirement or sharing your experience and knowledge by becoming a consultant.

According to the [Justice Department](#), be aware of post-retirement employment restrictions. These restrictions particularly apply to activities that involve appearing before or communicating with federal agencies or courts after the former federal employee has left the government.

Maintaining an income property in retirement. Here are five key takeaways from [Investopedia](#) for real estate investing for retirement income: Rental real estate can be a good source of retirement income. The relative inefficiency of the real estate market can produce bargains that offer strong returns. If you need to borrow to buy a rental property, do so before you retire. Choosing a good location is more important than finding the cheapest property. You should look to earn about 8 percent per year on your investment, after costs. Monetizing one's home in retirement (such as renting out space in a retiree-occupied home).

CSRS and FERS retirement benefits along with Social Security benefits receive annual cost-of-living adjustments which will help your retirement income keep pace with increasing prices. For most FERS retirees, the FERS Basic Retirement Benefit doesn't receive any cost-of-living adjustments until after reaching age 62. Rapid inflation from 2021 to 2023 has made it harder to retire on a fixed income. Perhaps working a little longer or considering a phased retirement may help increase your cash flow in retirement.

Sourced From: [\(Government Executive\)](#)

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