

March 18, 2019

## **MEMORANDUM**

TO: Chapter Presidents and Legislative Coordinators

RE: Major Civil Service Reform Proposals Included in the Administration's Fiscal Year 2020 Budget Request

**SUMMARY: The Administration released additional information on its Fiscal Year (FY) 2020 Budget Request, including significant civil service reform changes.**

Today the Administration released additional details of the FY 2020 Budget Request, calling once again for significant cuts to employee pay and benefits and releasing major proposals to change federal employee due process and labor rights. These legislative proposals include:

### Retirement:

- Significantly increasing Federal Employee Retirement System (FERS) employee contributions by about 1 percentage point each year until they equal the agency contribution rate,
- Basing future FERS retirement benefits on the average of the high-five years of salary instead of the current high-three,
- Eliminating the FERS supplement which approximates the value of Social Security benefits for those who retire before age 62,
- Eliminating the annual cost of living adjustments (COLA) for the pensions of current and future FERS retirees and significantly reducing the COLA for the pensions of current Civil Service Retirement System (CSRS) and future retirees by about 0.5 percent annually,
- Reducing the G Fund interest rate under the TSP, thereby lowering the value of this TSP option, and
- Eliminating the FERS defined benefit for term employees and instead provide them with an expanded defined contribution benefit of up to 5 percent matching contributions through the TSP (up to 7 percent for employees in the public safety field).

### Health Care

- Significantly modifying the government contribution rate for the Federal Employees Health Benefits Program (FEHBP) by tying it to each plan's performance rating. For many FEHBP enrollees, this will mean that the government's overall contribution rate will be lower than it is now, requiring enrollees to pay significantly higher premiums.

### Pay

- Freezing the pay for federal civilian employees for 2020 when, under current law (Federal Employee Pay Comparability Act), federal employees should receive a 2.6 percent across-the-board increase before adding any amount for locality pay,
- Slowing the frequency of the step increases,

- Asking agencies to use their performance award accounts to finance more strategic workforce awards and to invest in innovative approaches to meeting critical recruitment, retention and reskilling needs, and
- Establishing special occupational pay systems for occupations where the General Schedule classification and pay system are not aligned with labor-market realities.

### Leave

- Combining annual and sick leave, in addition to paid federal holidays, into to a general paid time off category and reducing the total number of leave days. The proposal also includes adding a short-term disability insurance policy to protect employees who experience a serious medical situation, which would require an employee contribution.

### Due Process

- Streamlining the procedures for taking an adverse or performance-based action on the basis of unacceptable performance by shortening the length of certain notice and response periods, such as limiting the time period to demonstrate acceptable performance to generally not more than 30 days while providing agencies sole and exclusive discretion to extend this period if circumstances warrant.
- Streamlining adverse action procedures covered by Chapter 75 by, among other things, shortening timelines for notice and response for proposed suspensions and removals and providing agencies with additional flexibility to use longer probationary periods.

### Labor-Management

- Clarifying “essential management prerogatives” so that unions are “precluded from exercising ... rights in a way that would unreasonably deter, divert, or delay managers from meeting their mission for the American people,” including:
  - Excluding pay from consideration for certain purposes in the grievance process,
  - Providing greater deference to agencies to take actions without negotiating by adding a broad definition of “emergency” that allows agencies to determine when an emergency has occurred, and
  - Directing the Chairman of the FLRA to establish a single, integrated process for resolving all matters associated with a bargaining dispute, restricting the FLRA from imposing status quo ante remedies in certain cases, and providing the Director of the Office of Personnel Management with the right to intervene in any proceeding before the FLRA when the Director believes that an erroneous decision will have a substantial impact on civil service laws or regulations,
- Defining a “formal discussion” for the purposes of when an agency must invite a union representative to a meeting between bargaining unit employees and agency management officials, and
- Limiting collective bargaining obligations to changes that are foreseeable, substantial, and significant in terms of impact and duration.
  - Limiting the ability to bring certain grievances that are seen as frivolous or regarding matters that already have established appeal provisions, such as a performance rating that does not constitute the basis for a performance-based award or adverse action against the employee or any matters covered under sections 4303 and 7512 which are otherwise appealable to the Merit Systems Protection Board (MSPB).

- Removing the option for bargaining unit employees to file a negotiated grievance and seek binding arbitration on matters where established statutory appeals processes exist, such as agency actions taken for performance or misconduct and which otherwise are appealable to the MSPB.

### Hiring

- Creating a new authority to provide noncompetitive, term-limited appointments of Highly Qualified Experts,
- Providing a new noncompetitive Term/Temporary hiring authority of up to 18 months to address critical hiring needs,
- Creating an Industry Exchange Program for STEM occupations intended to provide for the exchange of ideas and expertise between the Federal Government and the private sector,
- Authorizing Direct Hire Authority when there is a demonstrated shortage of “highly qualified” candidates (compared to the current threshold of “qualified” candidates),
- Authorizing OPM to prescribe minimum qualification requirements for any alternative pay/classification systems established under the special occupational pay system authority in subchapter IX of 5 U.S.C. chapter 53, and
- Creating a new Critical Skills Incentive that would allow the OPM Director to authorize agencies to offer a pay incentive to employees (or subsets of employees) who possess high-demand or shortage skills that serve a critical need, up to 25 percent of basic pay.

The President’s anti-employee proposals are designed to decimate the civil service by taking away key due process and collective bargaining rights, as well as reducing employee pay, retirement, and health benefits. NTEU strongly opposes these efforts and will fight to ensure that federal employees receive a pay raise for 2020 and that employee rights and benefits are protected.

Anthony M. Reardon  
National President