



# THE LIGHTS ARE ON, BUT EVERYONE IS AT HOME: WHY THE NEW ADMINISTRATION WILL ENTER LARGELY VACANT FEDERAL AGENCY OFFICES

Report Prepared by the House Committee on Oversight and Government Reform Majority Staff

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# Table of Contents

<b>Table of Contents</b> .....	1
<b>Executive Summary</b> .....	2
<b>Key Findings</b> .....	4
<b>I. President Trump Will Inherit an AWOL Federal Workforce</b> .....	5
<b>A. Federal Employees are not Showing Up to Work</b> .....	5
<b>B. Federal Office Buildings are Largely Empty and Underutilized</b> .....	9
<b>C. Biden-Harris Officials Tried to Keep President Trump from Bringing Federal Employees Back to Work</b> .....	14
<b>II. The Biden-Harris Administration Allowed Pandemic-Era Telework Levels to Become the New Normal</b> .....	17
<b>A. Telework Pre-pandemic</b> .....	17
<b>B. Widespread Telework During COVID-19 Pandemic</b> .....	17
<b>C. The Biden-Harris White House Gave Agencies Free Rein to Set Telework Levels</b> .....	18
<b>III. Federal Employee Telework Lacks Accountability</b> .....	20
<b>A. The OPM Director Was Unaware How Many Federal Employees Were Teleworking</b> .....	21
<b>B. Committee Demands Documents and Information about Telework</b> .....	23
<b>C. Agencies Testified That Massive Telework Has Hindered Their Missions</b> .....	27
<b>D. GAO Report Confirms Committee’s Finding that Agency Oversight of Telework is Lax</b> ..	30
.....	
<b>IV. Biden-Harris Administration’s Struggle to Return Employees to Work</b> .....	31
<b>A. A Halfhearted Attempt to Bring Employees Back</b> .....	31
<b>B. Federal Employee Unions Resist Return to Office Efforts</b> .....	36
<b>V. Conclusion/Recommendations</b> .....	38

## Executive Summary

The COVID-19 pandemic, which began in March 2020, initially triggered a period of massive telework, including among the federal workforce. The Trump Administration started recalling some federal workers back to their offices before the end of President Trump’s first term. Since then, the COVID-19 pandemic has subsided, and in April 2023, President Biden declared the emergency over. Yet, four years after President Trump left office, federal office buildings remain largely vacant due to prolonged pandemic-era telework enabled by the Biden-Harris Administration.

This report assesses the current extent of federal telework, how so many government employees ended up at home, the impact of their absence from the office, and the outgoing Biden-Harris Administration’s efforts to ensure that federal employees continue to remain at home—even under a new Administration.

During the 118th Congress, the House Committee on Oversight & Accountability (Oversight Committee or Committee) investigated the extent of federal telework and remote work, the effects of telework on agency mission outcomes, and the degree to which telework use was actually monitored. The investigation revealed the Biden-Harris Administration maintained massive telework levels, long after the pandemic ended. This expanded telework posture continued largely unabated, despite a lack of mechanisms to effectively oversee telework or to determine the damage done to mission outcomes, or other collateral harm it could be inflicting.

The Committee’s efforts helped shine a light on the ongoing stay-at-home policies across federal agencies that the White House rarely mentioned. The sunlight eventually pressured the Biden-Harris Administration to try to return some federal employees to their offices. These limited efforts to instate return to work (RTO) policies, however, largely failed, and the Administration failed to accomplish even its own stated RTO objectives. Much of that failure was attributable to the successful resistance of federal employee labor unions, due to their success in having already successfully managed to embed generous telework guarantees in collective bargaining agreements entered into with pliant Biden-Harris Administration appointees.

With over 2.2 million civilian employees distributed across hundreds of agencies, the federal government is the nation’s largest employer.<sup>1</sup> As of May 2024, more than half of federal employees were either teleworking regularly or fully remote.<sup>2</sup> The vast majority of federal employees whose job could *conceivably* be performed outside the office, *were* being performed outside the office. As a result, federal office buildings are largely empty, particularly DC-area agency headquarters offices. As of March 2024, “17 of the 24 (largest) federal agencies used on average an estimated 25 percent or less of the capacity of their headquarter buildings.”<sup>3</sup>

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<sup>1</sup> See Off. of Mgmt. and Budget, *OMB Report to Congress on Telework and Real Property Utilization* (Aug. 2024) [hereinafter “OMB Report on Telework and Real Property Utilization”].

<sup>2</sup> See *id.* at 2.

<sup>3</sup> U.S. Gov’t Accountability Off., GAO-23-106200, *Preliminary Results Show Federal Buildings Remain Underutilized Due To Longstanding Challenges And Increased Telework* at 7 (July 13, 2023) [hereinafter “GAO Federal Building Utilization Report”].

While President Trump initially invoked massive telework and remote work as a precautionary measure amidst the extreme uncertainty existing at the outset of the COVID-19 pandemic, he quickly sought to return federal employees to their offices to deliver for the American people when it became clear that widespread, indiscriminate lockdowns were not the right societal answer to the pandemic.<sup>4</sup>

It is unsurprising then, that during the 2024 presidential election cycle, President Trump promised the American people he would return federal employees back to in-person work. He has now received an electoral mandate to manage the workforce as he sees fit. And yet, despite this mandate, it is reported that federal employees are “scrambling to insulate themselves from” President Trump’s coming reforms.<sup>5</sup>

The Biden-Harris Administration’s belated attempt to bring federal employees back to work in a limited fashion was a failure in part due to generous concessions it had made to federal employee unions, which leveraged collective bargaining agreement (CBA) provisions to successfully resist even White House pleas for employees to return to work. These pleas emerged only after vacant federal workspaces had become an embarrassment and political vulnerability for the Administration.

Although the telework provisions in CBAs frustrated the Biden-Harris Administration’s own limited return to work efforts, some agency leaders sought to lock these constraints on management in for the duration of the incoming Administration. The efforts were in keeping with broader Biden-Harris Administration attempts to “Trump-proof” the federal workforce. For instance, on April 9, 2024, the Office of Personnel Management (OPM) issued a final rule, *Upholding Civil Service Protections and Merit System Principles* (Merit System), intended not to promulgate any policy, but rather to prevent a potential future Trump Administration from increasing federal employee accountability, should he be elected the next President.<sup>6</sup> More recently, the Biden-Harris Administration signed a new collective bargaining agreement with the largest federal employee labor union to ensure that Social Security Administration (SSA) employees are guaranteed telework until 2029.<sup>7</sup>

The American people issued President Trump a mandate to effectuate his agenda, which includes increasing the efficiency and accountability of the federal workforce. That agenda is also the agenda of the Oversight Committee, which will work with the incoming Administration to bring federal employees back to work and deliver on November’s electoral mandate.

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<sup>4</sup> Daniel Lippman & Nolan D. McCaskill, *Trump pushes to reopen country, but his own workforce isn’t rushing back*, Politico (May 4, 2020).

<sup>5</sup> Lisa Rein & Jeff Stein, *Federal employees scramble to insulate themselves from Trump’s purge*, The Washington Post (Dec. 8, 2024).

<sup>6</sup> See *Upholding Civil Service Protections and Merit System Principles*, 89 Fed. Reg. 24982 (Apr. 9, 2024); Kevin Bogardus, *Can Biden protect the civil service from Trump?*, E&E News, Politico (April 4, 2024).

<sup>7</sup> Josh Eidelson, *Thousands of Federal Employees Land Work-From-Home Deal Ahead of Trump*, Bloomberg News, (Dec. 3, 2024).

## Key Findings

Through its investigation, the House Oversight Committee identified these key findings:

- Biden-Harris Administration officials worked with federal labor union allies not only to lock in high telework levels, but to undermine the ability of the incoming Trump Administration to unlock them, and to manage its own workforce.
- Physical and anecdotal evidence suggests the Administration's self-reported telework data exaggerates in-office attendance. But even the self-reported data is striking: of the 2.28 million federal civilian employees, approximately 228,000 are never required to show up to the office, and nearly all of the other 1.1 million employees technically-eligible for telework are engaged in telework. Further, telework-eligible employees at several agencies collectively spend less than half their work hours in the office—below the Administration's own RTO target.
- American taxpayers are wasting billions to pay for owned and leased federal office space that remain largely vacant. The Biden-Harris Administration did little to reduce the federal footprint despite maintaining massive telework levels.
- The Biden-Harris Administration made no real attempt to determine the effects of widespread telework prior to making it an ongoing policy in federal agencies. It also did not—and still does not—have the ability to collect reliable, timely telework data.
- The Biden-Harris Administration did not attempt to understand the effect of telework on agency missions or develop the capability to acquire basic telework data until almost two years after its initial reentry guidance, and then only due to continued pressure from the Oversight Committee.
- While the Biden-Harris Administration has touted the benefits of telework, it generally has had no means of measuring the effects of telework on agency mission outcomes or on addressing any existing recruitment or retention challenges.
- The Oversight Committee has found evidence that telework is detrimental to agency outcomes and new employee training.
- The Oversight Committee is aware of only one agency, the Veterans Benefits Administration (VBA), that currently monitors and measures the effects of telework on performance in a meaningful way. VBA is able to do this in large part because it can measure quantifiable outputs of its employees.
- The Oversight Committee discovered significant problems caused by expanded telework at certain agencies even as they sought to further reduce the amount of time employees worked in person.



- In-person work levels in many federal agencies are determined not by mission needs but by the ability of unions to extract concessions via collective bargaining.
- The White House and OPM initially sought to distance themselves from the issue, taking a “don’t ask, don’t tell” approach to individual agency telework levels. They set no overarching parameters or limits, and the OPM Director, under oath before the Oversight Committee, repeatedly said she was unaware how often DC-area federal employees work from home.
- When public pressure from the Oversight Committee and others eventually forced a White House-led effort to bring federal employees back to work to a minimal degree, it largely failed to do so because the Administration had already ceded so much authority to federal employees and their unions.

## **I. President Trump Will Inherit an AWOL Federal Workforce**

President Trump will inherit a largely absentee federal workforce whose telework and remote work arrangements were entrenched by the prior Administration. The outgoing Biden-Harris Administration has worked with federal employee unions to guarantee that the federal workforce continues to stay home, leaving federal office buildings empty and American taxpayers underserved, undermining President Trump’s ability to deliver on his mandate.

### **A. Federal Employees are not Showing Up to Work**

Federal telework and remote work grew gradually between the early 2000s and the start of the first Trump Administration. In Fiscal Year 2016, the jobs of 42 percent of federal workers were deemed “telework-eligible” while 22 percent of all federal workers (about half of those eligible) were actually teleworking.<sup>8</sup> In August 2016, just a few months before President Trump took office, the Commerce Department Inspector General issued a scathing report that found rampant over-reporting of remote hours worked by patent examiners working from home.<sup>9</sup>

Under President Trump, prior to the pandemic, telework essentially leveled off, with targeted attempts by Administration officials to pare back telework at specific agencies where it was found to be excessive and detrimental to mission.

Due to the pandemic, between FY 19 and FY 20, the telework-eligible portion of the workforce increased from 40 to 50 percent, and—much more significantly—the portion of those eligible actually teleworking rose from 56 percent to 90 percent. Thus, 45 percent of the entire workforce was teleworking. That figure rose to 47 percent in FY 21, under the Biden-Harris

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<sup>8</sup> U.S. Office of Personnel Management, *Status of Telework in the Federal Government*, Report to Congress, Fiscal Year 2016.

<sup>9</sup> U.S. Department of Commerce, Office of Inspector General, Office of Investigations, “*U.S. Patent and Trademark Office: Analysis of Patent Examiners’ Time and Attendance*,” Report No. 14-0990 (Aug. 2016).

Administration.<sup>10</sup> But when the pandemic subsided, the telework did not. Two years later, as of September 2023, nearly the same portion of the workforce was still teleworking (43 percent) as has been during the height of the pandemic.<sup>11</sup>

At that point, the Biden-Harris Administration was beginning to acknowledge it had gone too far and was belatedly trying to get some employees back to the office. As of May 2024, according to the Biden-Harris Administration's own data, the 1,057,000 employees designated telework-eligible were in the office an average of three days a week.<sup>12</sup> An additional 228,000 employees were remote employees who never come to the office at all.<sup>13</sup> Under a telework arrangement, federal employees are "expected to report to work both at an agency worksite and alternative worksite on a regular and recurring basis each pay period."<sup>14</sup> In other words, a telework-eligible federal employee may work from home but must regularly report in person to the office each pay period. In contrast, a remote employee is not expected to "regularly report[] to the agency worksite each pay period."<sup>15</sup> While telework employees must report to the office on occasion, remote employees never need to show up to work.

The shift in remote work relative to pre-pandemic levels is enormous. While the data indicates the portion of the workforce teleworking is roughly double pre-pandemic levels, the portion of those working remotely has quintupled since FY 19, from two percent of the workforce to ten percent.<sup>16</sup> At some agencies, the transformation has been profound. For instance, between September 2019 and May 2024, the Department of Health and Human Services (HHS) went from 2 percent remote to 29 percent; OPM went from 7 percent remote to 40 percent remote; the General Services Administration (GSA) went from 6 percent remote to 50 percent remote; and the Department of Education (ED) workforce went from 2 percent remote to 55 percent remote.<sup>17</sup>

Before President Biden finally declared a belated end to the COVID-19 emergency in April 2023, top Administration officials not only made no attempt to set a government-wide

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<sup>10</sup> U.S. Office of Personnel Management, *Status of Telework in the Federal Government*, Report to Congress, Fiscal Year 19 and Fiscal Year 2020 editions.

<sup>11</sup> U.S. Office of Personnel Management, *Status of Telework in the Federal Government*, Report to Congress, Fiscal Year 2023.

<sup>12</sup> OMB Report on Telework and Real Property Utilization at 1.

<sup>13</sup> OMB Report on Telework and Real Property Utilization at 7-8; *id.* at 4 ("Telework-Eligible – Refers to a position that an agency has determined to be eligible for participation in its telework program, generally meaning that an incumbent could complete some or all of their regular job functions from an alternative worksite other than their assigned duty station."); *id.* ("Remote Work – Refers to a work flexibility arrangement under which an employee performs the duties and responsibilities of such employee's position, and other authorized activities, from an approved worksite other than the location from which the employee would otherwise work and where there is no expectation that they report to a government facility on a regular or recurring basis, meaning that they work from the alternative work site (usually their house) on a full-time basis.").

<sup>14</sup> *Questions and answers: Is there a difference between remote work and telework?*, U.S. Off. of Personnel Mgmt. (last visited Dec. 10, 2024).

<sup>15</sup> *Id.*

<sup>16</sup> See U.S. Office of Personnel Management, *Status of Telework in the Federal Government*, Report to Congress, Fiscal Year 19 & U.S. Office of Personnel Management, *Status of Telework in the Federal Government*, Report to Congress, Fiscal Year 19 and Fiscal Year 2020 editions.

<sup>17</sup> U.S. Office of Personnel Management, *Status of Telework in the Federal Government*, FY 2019 & OMB Report on Telework and Real Property Utilization.

telework policy, they seemed uninterested in how many employees were coming to work. This was exemplified at an Oversight Committee hearing on March 9, 2023, featuring Kiran Ahuja, then-Director of OPM, the agency charged with overseeing telework and other human resources policies across the federal workforce. At the hearing, Ahuja repeatedly professed ignorance about agency telework rates. An illustration is this dialogue between Ahuja and Representative Nancy Mace (R-S.C.):

Rep. Mace: You can't or won't answer questions related to how many workers are at home. You are the Director of OPM . . . you can't even tell us any basic data. Why are you here if you can't even answer our questions? You won't answer questions about bargaining agreements . . . You oversee federal employees and you can't answer basic questions that taxpayers on both sides of the aisle deserve to hear. Do you think American taxpayers, who sign your paycheck, deserve to know how many people aren't showing up to work?

Ms. Ahuja: Our employees show up every day . . .

Rep. Mace: No they do not. The data backs that up.<sup>18</sup>

The data supports Representative Mace's point. On August 9, 2024, the Office of Management and Budget (OMB)<sup>19</sup> released a report to Congress detailing the telework posture of federal agencies during the spring of 2024, *OMB Report to Congress on Telework, Real Property Utilization*.<sup>20</sup> The report detailed that, even a year after the hearing, significant numbers of federal employees still were not showing up for work. The report included the below chart, as the purported remote and telework rates of employees across the federal government.

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<sup>18</sup> *Oversight of Our Nation's Largest Employer: Reviewing the U.S. Office of Personnel Management: Hearing Before H. Comm. on Oversight & Accountability*, 118<sup>th</sup> Cong. (Mar. 9, 2023) [hereinafter "Mar. 9, 2023 OPM Hearing"].

<sup>19</sup> *A-Z index of U.S. government departments and agencies: Office of Management and Budget*, USA.gov (last visited Dec. 10, 2024).

<sup>20</sup> OMB Report on Telework and Real Property Utilization at 9.



**Table 1. Agency Rates of In-Person Work – May 2024<sup>1</sup>**

Agency	Workforce Composition			% Of Agency Regular Working Hours Spent in-Person <sup>2</sup>	
	Total Employees	Telework-Eligible Employees <sup>3</sup>	Remote Employees <sup>4</sup>	All Employees (Remote Excluded)	Telework-Eligible Employees (Remote Excluded)
Department of Agriculture	112,630	83,090	18,529	84.7%	81.0%
Department of Commerce	47,743	35,003	13,793	64.2%	42.3%
Department of Defense	783,081	241,222	61,549	78.7%	63.8%
Department of Education	4,245	4,163	2,341	43.4%	38.8%
Department of Energy	15,365	14,511	3,171	60.0%	57.1%
Department of Health and Human Services	91,845	71,145	26,849	65.8%	60.8%
Department of Homeland Security	224,522	118,781	15,445	85.0%	73.5%
Department of Housing and Urban Development	8,818	8,714	828	37.1%	36.4%
Department of Justice	116,649	23,724	1,653	91.4%	56.8%
Department of Labor	14,692	14,657	4,840	46.6%	46.6%
Department of State	18,302	16,712	1,091	79.4%	79.8%
Department of the Interior	65,409	49,878	8,190	81.2%	74.5%
Department of the Treasury	109,268	89,733	10,067	47.1%	35.7%
Department of Transportation	56,224	37,675	5,353	73.7%	60.4%
Department of Veterans Affairs	485,139	128,019	36,630	93.7%	68.0%
Environmental Protection Agency	16,040	15,643	2,397	37.9%	35.8%
General Services Administration	12,795	12,511	6,374	41.3%	41.6%
National Aeronautics and Space Administration	18,371	17,723	2,226	61.4%	60.2%
National Science Foundation	1,677	1,677	412	42.1%	42.1%
Nuclear Regulatory Commission	2,847	2,847	251	48.9%	49.0%
Office of Personnel Management	2,753	2,433	1,115	53.3%	52.9%
Small Business Administration	6,390	6,418	3,099	51.3%	52.8%
Social Security Administration	58,875	57,887	791	47.8%	46.9%
U.S. Agency for International Development	3,085	2,849	575	56.5%	55.6%
<b>All CFO Act Agencies</b>	<b>2,276,760</b>	<b>1,057,008</b>	<b>227,564</b>	<b>79.4%</b>	<b>61.2%</b>

**Notes:**

1. The data presented represents averages from two pay periods in April/May, 2024 ending on May 4<sup>th</sup> and May 18<sup>th</sup> collected from agency time and attendance systems.
2. Rates of in-person work are calculated by calculating the portion of the total number of regular hours (excluding leave, overtime, and other premium and non-pay hours) that are performed via telework (both situational and recurring) versus those not performed via telework.
3. Due to the need for agencies to combine datasets between HR and Payroll data and different update cycles for those systems, some agencies have slight rounding discrepancies (<0.5%)—for example, the SBA has a discrepancy of approx. 28 FTE between its overall headcount and telework-eligible headcount.
4. Remote employees are a subset of telework-eligible employees and may include employees working under reasonable accommodations, military spouses, domestic employees teleworking overseas, and some number of employees better classified as mobile workers. Some agencies also have large numbers of short-term or surge personnel in remote roles based on unique mission needs (e.g., most of SBA’s remote workers are in temporary disaster roles, NSF’s intermittent experts and consultants (<130 work days/yr.) are remote).

*OMB Report to Congress on Telework and Real Property Utilization, Off. of Mgmt. & Budget (Aug. 2024).*

The data shows that, while millions of Americans wake up every day and go to their offices or worksites, a significant portion of the federal workforce continues to not show up to the office.<sup>21</sup> Some agencies’ employees rarely show up at all. For example:

- Of the 4,245 employees at the Department of Education, over half, 2,341, never show up to work, and those who do only spend 43.4 percent of their worktime in the office.<sup>22</sup>
- Of the 8,818 employees at the Department of Housing and Urban Development (HUD), 828 never show up to work, and those who do only spend 37.1 percent of their worktime in the office.<sup>23</sup>

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

- Of the 91,845 employees at the Department of Health and Human Services (HHS), nearly a third, 26,849, never show up to work, and those who do only spend 65.8 percent of their worktime in the office.<sup>24</sup>
- Of the 16,040 employees at the Environmental Protection Agency (EPA), 2,397 employees never show up to work, and those who do only spend 37.9 percent of their worktime in office.<sup>25</sup>

## **B. Federal Office Buildings are Largely Empty and Underutilized**

With the largest existing concentration of federal workers, the D.C. metropolitan region has visibly suffered under the massive telework posture maintained by the Biden-Harris Administration. The federal government is the region’s largest employer and the greatest leaseholder of office space in the city center. Federal employee absenteeism has left D.C.’s “once-bustling sidewalks, storefronts, and offices” now empty,<sup>26</sup> causing Washington, D.C Mayor Muriel Bowser to call on President Biden to take “decisive action . . . to either get most federal workers back to the office, most of the time,” or vacate unused federal office space so that others could actually use it.<sup>27</sup> President Biden did neither.

The photograph below shows the main parking lot of the U.S. Social Security Administration headquarters in Woodlawn, Maryland, a suburb of Baltimore. This photo was taken during an ordinary federal workday on Wednesday, December 6, 2023, at 11:08 a.m. Despite the federal public health emergency having ended more than six months prior,<sup>28</sup> the parking lot of SSA’s headquarters, home to over 6,300 employees,<sup>29</sup> was almost entirely devoid of vehicles.

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<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> Christian Flores, *Federal workers could soon be required to return to office. What this could mean for DC.*, ABC7News (Dec. 6, 2024).

<sup>27</sup> Marc Fisher, *Federal workers are going back to the office – any year now*, The Wash. Post (Jun. 26, 2024).

<sup>28</sup> COVID-19 Public Health Emergency, U.S. Dep’t of Health & Human Services (accessed Dec. 11, 2024), available at <https://www.hhs.gov/coronavirus/covid-19-public-health-emergency/index.html>.

<sup>29</sup> *Social Security History: The Candler Building, Home to Social Security 1936-1960*, Soc. Sec. Admin. (last visited Dec. 10, 2024).

*Social Security Administration Headquarters, Woodlawn, MD - Wednesday, Dec. 6, 2023 at 11:08 a.m. (Obtained by Committee Staff).*



As mentioned, nearly 27,000 HHS employees never show up to their offices for work.<sup>30</sup> HHS's absentee workforce is displayed in the photograph below of the HHS headquarters building in Washington, D.C., which was taken on Wednesday, December 6, 2023, at 4:44 p.m.

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<sup>30</sup> OMB Report on Telework and Real Property Utilization at 9.

*Dept. of Health and Human Services Headquarters, Washington, D.C. – Wed., Dec. 6, 2023 at 4:44 p.m. (Obtained by Committee Staff).*



A July 2023 Government Accountability Office (GAO) report, *Preliminary Results Show Federal Buildings Remain Underutilized Due to Longstanding Challenges and Increased Telework*, reviewed utilization of federal agencies’ DC-area headquarters spaces.<sup>31</sup> The building occupancy analysis quantified just how empty these buildings were.<sup>32</sup> GAO “found that 17 of the 24 federal agencies used on average an estimated 25 percent or less of the capacity of their headquarter buildings.”<sup>33</sup> Some agency headquarters reported occupancy rates as low as nine percent.<sup>34</sup> The federal government pays roughly \$7 billion annually to lease and maintain office space for federal agencies.<sup>35</sup> In other words, the federal government is wasting billions in taxpayer dollars to pay for underutilized office space.<sup>36</sup>

Chairman Comer delved into this problem during a hearing with General Services Administration Administrator (GSA) Robin Carnahan on November 14, 2023, *Oversight of the U.S. General Services Administration*. GSA “manages approximately 1,500 federally owned buildings, which are used by various federal agencies.”<sup>37</sup>

Chairman Comer: . . . . In Washington, D.C., where most Federal agency headquarters are located, much of the 21 million square feet of office space they occupy sits empty.

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<sup>31</sup> See generally GAO Federal Building Utilization Report.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.* at 7.

<sup>34</sup> *Id.* at 8.

<sup>35</sup> *Id.*, at “What GAO Found.”

<sup>36</sup> See *id.*

<sup>37</sup> *Id.*

According to the Government Accountability Office, 17 of 24 federal agency headquarters buildings in D.C. were operating at 25 percent or less capacity as of March. Get this: the six emptiest buildings average just 9 percent capacity, and the Biden Administration does not want to know or understand whether its employees are coming into the workplace.... Half of GSA's building leases are coming up for renewal in the next 5 years, so if employees are not going back to work, let us act accordingly.

Hundreds of millions of dollars of taxpayer funds are spent annually just to maintain government-owned properties that should be sold off. A billion dollars or more could be saved annually by terminating unneeded Federal office space leases—a billion dollars. Unused Federal space was an issue prior to the pandemic. Federal property management has long been on GAO's high-risk list, but it has now become one that is simply too big and too costly to ignore.

When I look at the activities GSA oversees—Federal property, procurement, travel, and conferences—I see a lot of opportunities for savings in Federal discretionary spending. GSA is directly involved in how tens of billions of funds are spent every year. It is the gatekeeper to the massive Federal marketplace across a wide variety of industries. It oversees thousands of Federal properties and hundreds of millions of rented square footage....<sup>38</sup>

To add insult to injury, even as the federal workforce was failing to occupy offices maintained at the taxpayers' expense, agencies were spending billions of dollars to furnish these spaces.<sup>39</sup>

Chairman Comer: You know, the American people are fed up with the wasteful spending and it is not just Federal empty office space costing billions every year. A non-profit transparency group recently found that Federal

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<sup>38</sup> *Oversight of the U.S. General Services Administration: Hearing Before H. Comm. on Oversight & Accountability*, 118<sup>th</sup> Cong. (Nov. 14, 2023) (Statement of Chairman James Comer, H. Comm. on Oversight & Accountability) [hereinafter "Nov. 14, 2023 GSA Hearing"].

<sup>39</sup> Joe Lancaster, *The Federal Government Spent \$3.3 Billion on Office Furniture as Employees Worked From Home*, Reason (Oct. 5, 2023).



agencies spent \$3.3 billion dollars on furniture over the past few years apparently to furnish office spaces left mostly empty under maximum telework. Some agencies spent hundreds of thousands of dollars just on updating empty conference rooms. Administrator, can you explain why the purchasing of federal furniture continued unabated during the pandemic?

Ms. Carnahan: So. I cannot speak to specific items that were purchased, but I can say that the government did not close down. Agencies were continuing to work, courthouses continued to operate, prisons were operating, the Defense Department was operating, lots of agencies were in offices. I personally visited Des Moines where throughout the pandemic they were constructing a courthouse. Harrisburg, Pennsylvania, San Antonio, Texas, this work did not stop.

Chairman Comer: My time is about to expire, but let me conclude by saying that agencies that truly require new furniture can give their old furniture to other agencies or sell it off to private parties. That would take some of the burden off taxpayers. Now I cannot imagine a big private business spending lavishly on furnishings for an office building that no one works out of. Shareholders would not stand for it, and we cannot stand for it on behalf of the American taxpayer. There needs to be a culture shift in the Federal government that looks towards cost savings and achieving agency missions in the most efficient ways possible, and I hope GSA hears that message loud and clear.<sup>40</sup>

Administrator Carnahan herself was not even showing up to GSA headquarters regularly. Instead, she was spending most of her time leading the agency from outside Washington, D.C., where GSA is headquartered. Information obtained by the Committee from GSA showed that Administrator Carnahan only worked at GSA headquarters in D.C. for 64 workdays—approximately one in four workdays—from March 2022 to March 2023. She spent most of her time, 121 days, teleworking from Missouri.<sup>41</sup> Chairman Comer pointed out Administrator’s failure to lead by example during the November 14, 2023 hearing.

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<sup>40</sup> Nov. 14, 2023 GSA Hearing.

<sup>41</sup> See Letter from Gianelle E. Rivera, Associate Administrator, General Services Admin. to Rep. James Comer, Chairman, H. Comm. on Oversight & Accountability (Mar. 31, 2023), *on file with Committee staff*.



Chairman Comer: . . . . This Committee, at least my Republican colleagues, want to know that GSA is carrying out its responsibilities with the genuine interest of the taxpayer, front and center.

And we want confidence that the current Administrator is up to the task. After we received reports she was rarely in Washington, we sought information. What we found was that Administrator Carnahan did spend a great deal of her time away from D.C., more than what official travel would require. At a time when the White House Chief of Staff, himself, is stressing the importance of in-person work, we want to know if agency heads, including Ms. Carnahan, are leading by example.<sup>42</sup>

### **C. Biden-Harris Officials Tried to Keep President Trump from Bringing Federal Employees Back to Work**

The Biden-Harris Administration failed to hold federal employees accountable and ceded operational authority to run the federal government to federal employee unions. As will be discussed in further detail in Section IV. B., the Biden-Harris Administration’s belated attempts to bring some federal workers back to the office failed in many instances due to opposition from federal labor unions. Yet, in the wake of President Trump’s landslide election victory, some Biden-Harris officials collaborated with union allies to further entrench telework guarantees for portions of the federal workforce covered by collective bargaining agreements.

The Biden-Harris Administration’s broader intent to “Trump-proof” the federal workforce was illustrated on April 9, 2024, when OPM issued a sweeping final rule, *Upholding Civil Service Protections and Merit System Principles*, aimed to more deeply entrench the federal workforce by restricting executive discretion over the classification of federal employee positions. This rule contains no meaningful reforms to telework.<sup>43</sup> Instead, it seeks to prevent the incoming Trump Administration from holding ineffective bureaucrats accountable.<sup>44</sup> During a May 22, 2024 hearing, *Oversight of Our Nation’s Largest Employer: Reviewing the U.S. Office of Personnel Management, Pt. II*, OPM Acting Director Rob Shriver could not answer how the updated Merit System would ensure the federal workforce “is working diligently and impartially.”

Chairman Comer: So, what is OPM doing to know exactly how well the [Merit] [S]ystem is or is not working and what is it doing to ensure that the civil service is working

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<sup>42</sup> Nov. 14, 2023 GSA Hearing.

<sup>43</sup> *Upholding Civil Service Protections and Merit System Principles*, 89 Fed. Reg. 24982 (Apr. 9, 2024).

<sup>44</sup> *Id.*

diligently and impartially, regardless of who is in the Oval Office?

Mr. Shriver: . . . Every civil servant has an obligation to put the mission first and work on behalf of the American people.

Chairman Comer: What specifically are you doing?

Mr. Shriver: So, these are the things that we have done. No. 1, we issued guidance to agencies to remind them about how they can make effective use of probationary periods. That is the period at the beginning of a person's career.

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So, other things that we have done is provided free training to managers and supervisors across government on thriving in a hybrid work environment. This included a focus on performance management for teleworkers.<sup>45</sup>

Instead, the updated Merit System grants federal employees “protections” that are “meant to safeguard against the potential reemergence of the Trump-era Schedule F policy.”<sup>46</sup> The Trump Administration sought to reclassify federal employees to allow agency heads “greater degree of appointment flexibility with respect to [federal] employees than is afforded by the existing competitive service process,” to hold ineffective federal employees accountable.<sup>47</sup> As the executive order explained, “effective performance management of employees in confidential, policy-determining, or policy-advocating positions is of the utmost importance.”<sup>48</sup>

More recently, the outgoing Biden-Harris Administration entered into long-term CBAs with federal employee unions that limit management authority through unprecedented concessions, including guaranteeing telework for federal bureaucrats. For instance, as *Bloomberg News* reported, outgoing SSA Chief Martin O'Malley approved an agreement with the American Federation of Government Employees (AFGE) that seeks to lock in minimum telework levels for 42,000 SSA employees until 2029.<sup>49</sup>

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<sup>45</sup> *Oversight of Our Nation's Largest Employer: Reviewing the U.S. Office of Personnel Management, Pt. II: Hearing Before H. Comm. on Oversight & Accountability*, 118<sup>th</sup> Cong. (May 16, 2024).

<sup>46</sup> Carten Cordell, *OPM issues its final rule for Schedule F protections*, Government Executive (Apr. 4, 2024).

<sup>47</sup> Exec. Order No. 13957, Executive Order on Creating Schedule F In The Excepted Service (Oct. 21, 2020).

<sup>48</sup> *Id.*

<sup>49</sup> Josh Eidelson, *Thousands of Federal Employees Land Work-From-Home Deal Ahead of Trump*, *Bloomberg News* (Dec. 3, 2024).

The agreement was finalized with AFGE on November 27, 2024, after O’Malley informed the press he was going to run for head of the Democratic National Committee (DNC) and just days before stepping down from his job at SSA.<sup>50</sup> This highlighted everything problematic about federal sector collective bargaining. O’Malley signed an agreement that will tie the hands of his successor. He will not need to manage SSA under its terms or pay for any costs it exacts. Signing the agreement, however, surely boosted his standing with federal employee unions who can elevate his DNC candidacy. Indeed, he partied with AFGE members in Florida shortly before signing the agreement.<sup>51</sup>

The SSA employees are a notable failure in returning to work. Nearly all of the 58,875 SSA employees are telework eligible, and those eligible employees have spent only 46.9 percent of their time in the office.<sup>52</sup> As the image in Section I. B. above shows, SSA headquarters’ parking lot in Maryland was empty on a Wednesday—the middle of the work week. It was not a holiday; there was no reason for these federal employees to fail to show up to work. This failure to show up runs parallel to failures at SSA in accomplishing its mission. SSA is charged with administering “the Social Security retirement, survivors, and disability insurance programs.”<sup>53</sup> It dispersed \$1.6 trillion in budget resources in Fiscal Year 2024.<sup>54</sup> Yet, SSA is failing to adequately serve the American people, as SSA disability determination processing times on average “have increased since fiscal year 2020.”<sup>55</sup> Processing times have not returned to pre-pandemic levels.<sup>56</sup>

On December 6, 2024, the Oversight Committee sent letters to twenty-four federal agencies, demanding agencies cease negotiating or extending collective bargaining agreements with federal employee unions for the duration of the Biden-Harris Administration.<sup>57</sup> The Committee also requested information related to collective bargaining negotiations and agencies’ communications with the White House to investigate the Biden-Harris Administration’s “short-term tactics to Trump-proof federal agencies.”<sup>58</sup>

President Trump has promised to reform the federal workforce and bring federal employees back to their offices.<sup>59</sup> The Biden-Harris Administration’s lame duck political gamesmanship will hinder and constrain the ability of the incoming Trump Administration to manage employees effectively and responsibly, and to increase accountability to the public.

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<sup>50</sup> Luke Rosiak, *Social Security Head Drank With Union Members Before Giving Them Telework Through 2029*, The Daily Wire (Dec. 10, 2024); Lisa Kashinsky & Braktkton Booker, *DNC chair race kicks off, as Martin O’Malley announces bid*, Politico (Nov. 18, 2024).

<sup>51</sup> Luke Rosiak, *Social Security Head Drank With Union Members Before Giving Them Telework Through 2029*, The Daily Wire (Dec. 10, 2024).

<sup>52</sup> OMB Report on Telework and Real Property Utilization at 9.

<sup>53</sup> *A-Z index of U.S. government departments and agencies: Social Security Administration (SSA)*, USA.gov (last visited Dec. 10, 2024).

<sup>54</sup> *Social Security Administration (SSA)*, USASpending.gov (last visited Dec. 10, 2024).

<sup>55</sup> *Disability determination processing time*, Soc. Sec. Admin. (last visited Dec. 10, 2024).

<sup>56</sup> *Id.*

<sup>57</sup> Press Release, H. Comm. on Oversight & Accountability, Comer and Greene Demand Biden Administration Stop Signing New Labor Deals That Entrench the Federal Bureaucracy (Dec. 6, 2024), *letters available at* <https://oversight.house.gov/wp-content/uploads/2024/12/2024.12.6-Letters.pdf>.

<sup>58</sup> *Id.*

<sup>59</sup> Eric Katz, *Key lawmakers back Trump’s plans to remove federal workers*, Government Executive (Nov. 20, 2024).

## II. The Biden-Harris Administration Allowed Pandemic-Era Telework Levels to Become the New Normal

The COVID-19 pandemic ushered in an era of telework. In the spring and summer of 2020, President Trump worked to bring federal employees back to work.<sup>60</sup> When the Biden-Harris Administration assumed office in 2021, it worked to keep federal employees teleworking despite the pandemic waning.

### A. Telework Pre-pandemic

Prior to the COVID-19 pandemic, congressional action regarding telework was focused on cautiously and incrementally increasing the amount of telework across federal agencies.<sup>61</sup> Ironically, considering the damage current telework levels are doing to commerce and business property values in the District, some members of Congress viewed telework at the time chiefly as a potential response to traffic congestion in the Washington, D.C. Metropolitan Area.<sup>62</sup>

Congress first mandated agencies establish programs allowing federal employees to telework in 2000.<sup>63</sup> Federal telework rates, however, remained low through 2010. In 2008, for example, only five percent of federal employees participated in telework programs.<sup>64</sup> After Congress passed the Telework Enhancement Act of 2010, which required agencies to assess the telework eligibility of staff positions and create formal telework agreements with individual employees,<sup>65</sup> telework rates rose more steadily, from 14 percent in 2012 to 22 percent in 2019.<sup>66</sup>

In the years immediately preceding the COVID-19 pandemic, the Trump Administration took some steps to scale back telework in some agencies due to concerns it was harming productivity and effectiveness.<sup>67</sup> For example, SSA canceled a telework pilot program in November 2019, citing increased wait times and unacceptable delays to customer service.<sup>68</sup>

### B. Widespread Telework During COVID-19 Pandemic

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<sup>60</sup> Daniel Lippman & Nolan D. McCaskill, *Trump pushes to reopen country, but his own workforce isn't rushing back*, Politico (May 4, 2020).

<sup>61</sup> *Telework History, Legislation, & Reports*, Off. of Personnel Mgmt. (last visited Dec. 10, 2024).

<sup>62</sup> Press Release, Rep. Gerry Connolly, *Article: Washington Post Editorial Cites Connolly's Telework Bill* (Feb. 22, 2010).

<sup>63</sup> See Department of Transportation and Related Agencies Appropriations, 2001, Pub. L. No. 106-346, 114 Stat. 1356 (2000).

<sup>64</sup> H. Rept. 111-474, at 7 (2010).

<sup>65</sup> The Telework Enhancement Act of 2010 (the Act), Pub. L. No. 111-292, 124 Stat. 3165. (2010).

<sup>66</sup> Nathan Abse, *Expanded telework, a benefit now under threat, effectively boosts pay for hundreds of thousands of feds*, Government Executive (Aug. 30, 2023).

<sup>67</sup> Lisa Rein, *As remote work rises at U.S. companies, Trump is calling federal employees back to the office*, Wash. Post (Jan. 12, 2020).

<sup>68</sup> *Id.*

The COVID-19 pandemic instigated a massive, unplanned experiment of widespread telework across federal agencies. On March 17, 2020, OMB issued guidance ordering agencies to minimize in-person contact and to maximize employees' use of telework.<sup>69</sup> As a result, "routine or situational" federal telework rates spiked to 45 percent in 2020 and 47 percent in 2021.<sup>70</sup> These are aggregate numbers, however, which incorporate roughly half of the federal workforce whose jobs must be done on site (e.g., Transportation Security Administration employees and Customs and Border Protection agents). At the height of the pandemic, more than 90 percent of federal workers whose jobs could conceivably be done outside of their government worksite were engaging in telework.

As early as April 2020, however, President Trump was beginning to urge for a return to normalcy, including the safe return of federal workers to the office.<sup>71</sup>

### **C. The Biden-Harris White House Gave Agencies Free Rein to Set Telework Levels**

After President Biden was inaugurated in January 2021, one of his first acts was to issue an executive order on *Protecting the Federal Workforce and Requiring Mask-Wearing*, mandating the use of masks in federal spaces.<sup>72</sup> OMB then distributed a memorandum imposing a 25 percent occupancy limit in federal buildings and signaling that President Biden would not immediately push for federal workers to return to the office.<sup>73</sup> President Biden's order had lasting effects. As discussed, as of 2023 "17 of the 24 agencies [reviewed] used on average an estimated 25 percent or less of the capacity of their headquarters buildings."<sup>74</sup>

On June 10, 2021, OMB issued guidance for a return to federal workplaces but maintained the maximum telework policy and directed agencies to leverage telework, remote work, and flexible work schedules as tools for the "federal government to be competitive for top talent as employers in the broader labor market."<sup>75</sup> OMB's June 10, 2021 guidance listed "discretion and flexibility in decision making" among the agencies as a "core principle" in the

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<sup>69</sup> Memorandum from Russel T. Vought, Acting Director, Off. of Mgmt. and Budget, Federal Agency Operational Alignment to Slow the Spread of Coronavirus COVID-19 to the Heads of Departments and Agencies (Mar. 17, 2020) [hereinafter "Mar. 17, 2020 OMB Operational Alignment Memorandum"].

<sup>70</sup> Off. of Personnel Mgmt., *Status of Telework in the Federal Government Report to Congress*, at "Executive Summary" (Dec. 2022) [hereinafter "OPM Status of Telework Report"].

<sup>71</sup> Daniel Lippman & Nolan D. McCaskill, *Trump pushes to reopen country, but his own workforce isn't rushing back*, Politico (May 4, 2020).

<sup>72</sup> Exec. Order No. 13991, Executive Order on Protecting the Federal Workforce and Requiring Mask-Wearing (Jan. 20, 2021).

<sup>73</sup> Memorandum from Aviva Aron-Dine, Exec. Assoc. Dir., Off. of Mgmt. and Budget on COVID-19 Safe federal Workplace: Agency Model Safety Principles to the heads of Executive Departments and Agencies (Jan. 24, 2021).

<sup>74</sup> GAO Federal Building Utilization Report.

<sup>75</sup> Memorandum from Shalanda D. Young, Acting Dir., Off. of Mgmt. and Budget, Kathleen McGettigan, Off. of Personnel Mgmt., Katy Kale, Acting Admin., Gen. Serv. Admin. on Integrating Planning for A Safe Increased Return of Federal Employees and Contractors to Physical Workplaces with Post-Reentry Personnel Policies and Work Environment to the Heads of Executive Departments and Agencies, at 7 (June 10, 2021).

Administration’s approach to telework policy.<sup>76</sup> President Biden had left it up to agency heads to determine the extent to which federal employees could telework. This was followed by the Biden-Harris OPM’s issuance of the *2021 Guide to Telework and Remote Work in the Federal Government*, on November 12, 2021, which extolled the benefits of telework.<sup>77</sup> As *The Washington Post* Editorial Board recently noted, “[a]llowing each agency to set its own rules was a mistake.”<sup>78</sup>

Mayor Bowser, who “has been imploring the White House to change” the fact that federal employees are not coming into their offices<sup>79</sup> and has called for the return of federal employees since as early as January 2023,<sup>80</sup> expressed frustration with the Administration’s deference to agency heads during a December 10, 2024 hearing before the House Committee on Appropriations Subcommittee on Financial Services and General Government:

I have said repeatedly that most federal workers should be in the office most of the time . . . . What we’re calling for is a centralized policy that makes sense, just like we have in the District. We don’t think that individual agencies making decisions – one-off decisions – about what the telework policy is is the most efficient [way to do it].<sup>81</sup>

In March 2024, Bowser brought all D.C. employees back in the office four days a week. *The Washington Post* and Mayor Bowser were both correct about avoiding agency one-off decisions. Why is it so important for the leader of a government workforce to set broad telework parameters?

A common argument for telework, including among federal employees, is its necessity for recruitment and retention. The reality is that neither is a problem for the vast majority of federal jobs. The Government has among the longest lines for jobs and the lowest quit rates of any employer. Although the White House belatedly began calling the federal workforce to return to the office during Fiscal Year 2023, the federal employee attrition rate that year fell to 5.9 percent, a three-year low. Half of those departures were due to retirement, so only about 1 in 33 non-retiring federal workers departed the Government that year.<sup>82</sup> In reality, the most typical retention concern for federal agencies is that desirable employees will transfer to another job elsewhere in the federal government that offers the same pay but more generous telework. This

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<sup>76</sup> Memorandum from Shalanda D. Young, Acting Dir., Off. of Mgmt. and Budget, Kathleen McGettigan, Off. of Personnel Mgmt., Katy Kale, Acting Admin., Gen. Serv. Admin. on Integrating Planning for A Safe Increased Return of Federal Employees and Contractors to Physical Workplaces with Post-Reentry Personnel Policies and Work Environment to the Heads of Executive Departments and Agencies, at 7 (June 10, 2021).

<sup>77</sup> Off. of Personnel Mgmt., *2021 Guide to Telework and Remote Work in the Federal Government: Leveraging Telework and Remote Work in the Federal Government to Better Meet Our Human Capital Needs and Improve Mission Delivery* (Nov. 2021).

<sup>78</sup> Editorial Board, *D.C.’s downtown is comatose. Here’s how to revive it.*, *The Washington Post* (Nov. 23, 2024).

<sup>79</sup> *Id.*

<sup>80</sup> Michael Schaffer, *D.C. Mayor to Biden: Your Teleworking Employees Are Killing My City*, *Politico* (Dec. 17, 2024).

<sup>81</sup> Tom Roussey, *District leaders and House Republicans agree on return of federal workers at hearing*, *WJLA* (Dec. 10, 2024).

<sup>82</sup> Kennedy Teel & Will Cohen, *Recent trends in quits and retirements in the federal workforce*, *Partnership for Public Service* (Sept. 4, 2024).



was the case at the Social Security Administration, which cited retention concerns as one reason for signing the aforementioned CBA locking in high telework levels until 2029. During fiscal year 2023, the most common reason given for departing the agency (other than retirement) was to transfer to another agency.<sup>83</sup>

Therefore, left to their own devices, individual federal agency officials are often incentivized to allow employees to stay home *so they won't defect to another federal agency*. Preventing such a race to the bottom among federal agencies requires strong White House leadership that takes a government-wide view and keeps the taxpayer interest front and center.

The COVID-19 Public Health Emergency officially ended on May 11, 2023.<sup>84</sup> Though evidence suggests “unscientific COVID-19 lockdowns caused more harm than good,” indicating telework and remote work were unnecessary responses to the pandemic,<sup>85</sup> the official end of the public health emergency put further pressure on the Biden-Harris Administration to bring federal employees back to work. On April 13, 2023, OMB issued guidance that established guidelines for reopening government offices and reducing the number of federal teleworkers, calling on agencies to “substantially increase meaningful in-person work at Federal offices.”<sup>86</sup> This effort, as is discussed in Section IV., however, met resistance from Democratic-aligned labor unions and federal employees.<sup>87</sup>

### **III. Federal Employee Telework Lacks Accountability**

During the 118th Congress, the Committee prioritized getting federal employees back to work. Agencies were falling short of their missions. Federal employees were getting paychecks for sitting at home, while the American people showed up to work and struggled to pay for groceries and bills under the growing weight of inflation. The Committee’s investigation revealed that the Biden-Harris Administration was incapable of tracking federal employee telework or of assessing the effects of telework on agency mission outcomes. Despite this inability measure impact on agency performance, Biden-Harris officials insisted that massive levels of federal telework and remote work were having no adverse effect. The Committee has found evidence suggesting otherwise. In addition to the billions wasted on empty federal buildings, the Committee found evidence that federal telework was not working for the American public.

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<sup>83</sup> Social Security Administration, *Human Capital Plan 2024-20226*, chart “SSA Top Departure Reasons, Permanent Employees, FY 19-FY 2023 at 62.

<sup>84</sup> *COVID-19 Public Health Emergency: 90-Day Timeline*, U.S. Dep’t of Health and Hum. Serv. (last visited Dec. 10, 2024).

<sup>85</sup> See generally H. Comm. on Oversight & Accountability, Select Subcomm. On the Coronavirus Pandemic, *After Action Review of the COVID-19 Pandemic: The Lessons Learned and a Path Forward* (Dec. 4, 2024).

<sup>86</sup> Memorandum from Shalanda D. Young, Director, Off. of Mgmt. & Budget, on Measuring, Monitoring, and Improving Organization Health and Organizational Performance in the Context of Evolving Agency Work Environments for the Heads of Executive Departments and Agencies (Apr. 13, 2023) [hereinafter “M-23-15 Memorandum”].

<sup>87</sup> Georgina DiNardo, *Unions push back on Biden plan to bring federal workers back*, Federal Times (Aug. 7, 2023).

## A. The OPM Director Was Unaware How Many Federal Employees Were Teleworking

In one of its first hearings of the 118th Congress, the Committee invited OPM Director Ahuja to testify about the state of the federal workforce on March 9, 2023. OPM serves a critical role “as the chief human resources agency and personnel policy manager for the Federal government.”<sup>88</sup> The hearing confirmed that the federal workforce as a whole was rudderless and leaderless. Despite Director Ahuja’s essential role in overseeing the federal workforce, she was unable to answer basic questions about federal telework. For example, Director Ahuja could not tell Representative Donalds (R-Fla.) or Representative Boebert (R-Colo.) the percentage of the federal workforce that had returned to in-person work:

Rep. Donalds: Do you know today what percentage of the Federal workforce is actually back in the office place?

Ms. Ahuja: Congressman, I don’t know that information. We have a telework report data—I mean, sorry—report that we have issued at the end of the year.<sup>89</sup>

\* \* \*

Rep. Boebert: Now, Director Ahuja, do you know as up to date, what percentage or the number of Federal employees that have returned to work full time, in person at their agency office?

Ms. Ahuja: Thank you, Congresswoman. I have mentioned before, I don’t **have that specific data.**<sup>90</sup>

Director Ahuja refused to say whether federal employees should return to work. Instead, she told Representative Donalds (R-Fla.) that “[i]t is a more complicated question.”

Rep. Donalds: You are head of OPM. You are head of all personnel management. You should be knowing who is in and out of the office, at a minimum, on a month-to-month basis. . .

\* \* \*

Do you think we should go back to pre-COVID-19 protocols? Yes or no.

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<sup>88</sup> *About Us*, Off. of Personnel Mgmt. (last visited Dec. 10, 2024).

<sup>89</sup> Mar. 9, 2023 OPM Hearing.

<sup>90</sup> *Id.* (emphasis added).

Ms. Ahuja:                   Congressman, it is a more complicated question than a yes or no answer.

Rep. Donalds:               That is not complicated at all. People [have] got to show up for work.<sup>91</sup>

On May 22, 2024, the Committee held another hearing with OPM, attended by Acting Director Rob Shriver.<sup>92</sup> Shriver also could not tell the Committee how many federal employees were teleworking. His testimony revealed that OPM was relying on antiquated data from the annual OPM telework report to assess telework levels:

Chairman Comer:         . . . . How many Federal employees are currently teleworking?

Mr. Shriver:               So, Congressman, we have 46 percent, under OPM's most recent telework data, 46 percent.

Chairman Comer:         Forty-six percent of the Federal workforce. What was that number before COVID?

Mr. Shriver:               I would have to go back and look at the specific reports, Congressman. I think the thing that changed is that a higher percentage of the people who are eligible to telework are now teleworking than were before COVID.<sup>93</sup>

\*       \*       \*

Chairman Comer:         How current is that data where you say 46 percent?

Mr. Shriver:               So, that data is based on the OPM Telework Report, the annual telework report that we produced in December 2023, which is based on 2022 data.<sup>94</sup>

Thus, Shriver was citing nearly two-year old telework data, pertaining to fiscal year 2022. It's unclear how OPM can play a meaningful role in overseeing the federal workforce and its personnel policies while relying on data so woefully out of date. OPM only recently compiled more up-to-date data, in response to a new Congressional requirement.<sup>95</sup> It is imperative that

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<sup>91</sup> *Id.*

<sup>92</sup> *Oversight of Our Nation's Largest Employer: Reviewing the U.S. Office of Personnel Management, Part II: Hearing Before H. Comm. on Oversight & Accountability*, 118<sup>th</sup> Cong. (May 22, 2024) [hereinafter "May 22, 2024 OPM Hearing"]; See Press Release, Office of Personnel Management, RELEASE: Kiran Ahuja to Step Down as Longest Serving OPM Director in a Decade (Apr. 16, 2024) (Director Ahuja stepped down from her role in April 2024. She was replaced by Deputy Director Rob Shriver.).

<sup>93</sup> May 22, 2024 OPM Hearing.

<sup>94</sup> *Id.*

<sup>95</sup> OPM Status of Telework Report.

OPM maintain more timely telework data in order that Administration leaders and the American people can know the whereabouts of the federal workforce that exists to serve the public.

## **B. Committee Demands Documents and Information about Telework**

Following the March 9, 2023 hearing with OPM, the Committee sent letters to the 24 Chief Financial Officer Act (CFO) agencies<sup>96</sup> and the Federal Deposit Insurance Corporation (FDIC) on May 18, 2023, seeking documents and information related to telework in their agencies.<sup>97</sup> The letters set a June 1, 2023, deadline to produce the requested documents and information. Most agencies did not answer this initial request. In fact, only three agencies—National Aeronautics and Space Administration (NASA), the Nuclear Regulatory Commission (NRC), and the Small Business Administration (SBA)—provided responses in a timely manner. All three agencies, however, still provided incomplete and inadequate responses.<sup>98</sup>

On August 4, 2023, the Committee sent a second letter threatening to subpoena the information from the agencies that failed to provide the requested documents and information.<sup>99</sup> The remaining agencies finally responded; however, many agencies' responses were inadequate, providing cursory answers or ignoring some questions altogether.

Certain omissions in agency responses, coupled with Director Ahuja and Acting Director Shriver's inability to testify to the level of telework in the federal government, suggest federal agencies are failing to track basic data about their telework programs. For example, when asked about their D.C.-based employees, only about half of the agencies answered how many employees engage in telework; only about half disclosed the average number of days per week telework-eligible employees engage in telework; and fewer than half answered how many

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<sup>96</sup> *2.4 Chief Financial Officers Act (1990)*, Chief Information Officers Council (last visited Dec. 10, 2024) (The 24 CFO Act Agencies include: the U.S. Agency for International Development, the Department of Agriculture, the Department of Commerce, the Department of Defense, the Department of Education, the Department of Energy, the Department of Health and Human Services, the Department of Homeland Security, the Department of Housing and Urban Development, the Department of the Interior, the Department of Justice, the Department of Labor, the Department of State, the Department of Transportation, the Department of the Treasury, the Department of Veterans Affairs, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the National Science Foundation, the Nuclear Regulatory Commission, the Office of Personnel Management, the Small Business Administration, and the Social Security Administration).

<sup>97</sup> Press Release, H. Comm. on Oversight & Accountability, Comer, Sessions & Boebert Lead Probe of Heightened Federal Agency Telework (May 19, 2023) [hereinafter May 18, 2023 Letters"], *letters available at* <https://oversight.house.gov/wp-content/uploads/2023/05/2023-05-18-letter-to-agencies-re-telework12.pdf>.

<sup>98</sup> [On file with Committee].

<sup>99</sup> Press Release, H. Comm. on Oversight & Accountability, Comer, Sessions, & Boebert Renew Document Request in Probe of Federal Agencies' Telework Policies (Aug. 7, 2023) [hereinafter Aug. 4, 2023 Renewed Request"], *letters available at* <https://oversight.house.gov/wp-content/uploads/2023/08/2023-08-04-letter-to-agencies-re-telework.pdf> (The agencies included: the Department of Energy, the Environmental Protection Agency, the Federal Deposit Insurance Corporation, the General Services Administration, the Department of Health and Human Services, the Department of Housing and Urban Development, the Department of the Interior, the Department of Homeland Security, the Department of Transportation, the Department of Commerce, the Department of Labor, the National Science Foundation, the Office of Personnel Management, the Small Business Administration, the Social Security Administration, the Department of State, the Department of the Treasury, the U.S. Agency for International Development, the Department of Agriculture, the Department of Veterans Affairs, the Department of Defense, the Department of Justice, and the Department of Education).

telework agreements were in place with the agency.<sup>100</sup> Further, as discussed below, agencies were either unable or unwilling to answer basic questions about their telework policies and practices, indicating that the agencies did not have an understanding of how telework affects their ability to deliver on their missions for the American people.

The Biden-Harris Administration cannot measure whether telework is effective. On April 30, 2024, the Committee held a hearing attended by OMB’s Deputy Director for Management (DDM), Jason Miller.<sup>101</sup> The hearing covered a variety of topics related to President Biden’s management agenda and policies, including telework. While fielding questions from Representative Grothman (R-Wis.), DDM Miller testified that OMB was bringing federal workers back to work but also argued that agency telework can be effective:

Rep. Grothman: In your opinion, is widespread Federal telework as effective, efficient, and good for the taxpayer as in-person work?

Mr. Miller: . . . as you noted, it was an important tool during the pandemic to navigate through that for some of the Federal workforce. It is important to put in context the Federal workforce. About half of Federal workers have to be at a worksite to perform their job responsibilities.

Rep. Grothman: Right.

Mr. Miller: Our approach in early 2023 was to release guidance to agencies to substantially increase the amount of in-person work. The purpose of that approach was to strengthen teams and organizations, make sure that we had strong culture, make sure that we had innovative teams, make sure that we are able to bring people on board. For office workers, the place where there is consistency across different agencies, we have been clear that our expectation is agencies are achieving at least 50 percent while giving them flexibility for how to deliver based upon their diverse mission space. That is consistent with where the private sector is, and we are going to continue to adjust as needed. **We should compete for talent. We should be able to measure performance.**

Rep. Grothman: OK. So, you are saying a good target is half the people going to work every day?

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<sup>100</sup> [On file with Committee].

<sup>101</sup> *A Focus on Management: Oversight of the Office of Management and Budget: Hearing Before H. Comm. on Oversight & Accountability*, 118<sup>th</sup> Cong. (Apr. 30, 2024) [hereinafter “Apr. 30, 2024 OMB Hearing”].

Mr. Miller: Our expectation is for office workers, headquarters and equivalents, that agencies are achieving at least 50 percent. To the extent they want to adjust to levels above that, we give them that flexibility. We set that target because it is consistent with where the private sector is. We think, given where the market is, that is the right answer.

Rep. Grothman: I will ask you again. Do you feel Federal telework is effective, efficient, and as good for the taxpayer as in-person work, in your own opinion?

Mr. Miller: I think that agencies have the ability to deliver on effective and efficient telework.”<sup>102</sup>

Notably, DDM Miller provided no evidence that widespread federal telework is as effective and efficient for the taxpayer as in-person work. This is presumably because either federal agencies do not have the ability to measure the effects of telework, or the evidence that does exist does not support the case.

The Committee has asked for copies of agencies’ plans for measuring the efficacy of telework, but nothing the Committee has reviewed suggests the agencies have such capabilities.<sup>103</sup> This is corroborated by a September 2024 study by the National Academy of Public Administration which included a recommendation that OMB develop indicators to better understand the impact of remote, hybrid, and in-person work on productivity.<sup>104</sup> In the Committee’s May 18, 2023, letters to the 24 CFO agencies and the FDIC, the Committee asked these agencies to describe the management controls they implemented to ensure federal employees adhered to the provisions of a telework agreement or otherwise fulfilled their official duties.<sup>105</sup> Some agencies offered generic responses. For example, the Environmental Protection Agency only provided a cursory overview of its telework policies:

Over a year ago, EPA began the process of bringing more employees back into the workplace while still offering flexibilities like telework and expanded work hours. As a model employer, and similar to other large organizations in government and in the private sector, EPA now operates in a hybrid environment, with employees who work on-site, remotely, or in some hybrid capacity.<sup>106</sup>

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<sup>102</sup> *Id.* (emphasis added).

<sup>103</sup> May 18, 2023 Letters.

<sup>104</sup> *See A Report by a Study Team of the National Academy of Public Administration for the Office of Management and Budget & the General Services Administration: Ensuring Excellence: A Guide for Cultivating Healthy High-Performing Agencies*, Nat’l Academy of Pub. Admin. (Sept. 2024).

<sup>105</sup> May 18, 2023 Letters.

<sup>106</sup> Letter from Tim Del Monico, Assoc. Admin., Env’tl Prot. Agency, to James Comer, Chairman, H. Comm. on Oversight & Accountability (June 2, 2023).



Similarly, the Department of Justice responded, “[s]upervisors are responsible for monitoring employee performance to ensure telework and remote work policies are being used effectively and efficiently.”<sup>107</sup>

The vague, nondescript answers provided suggest that the agencies lack the necessary, detailed management controls to ensure that their employees adhere to telework agreements or otherwise fulfill their duties. The lack of management from Biden-Harris Administration officials, combined with OPM’s clear absence of oversight capabilities pertaining to telework, paints a disturbing picture of federal employees—making their own rules and schedules—on the American taxpayers’ dime.

Representative Timmons (R-S.C.) also asked about the value of telework during the Committee’s May 22, 2024 hearing. Acting Director Shriver claimed that telework has a role in improving processing times at OPM:

Rep. Timmons: Dr. Shriver, what evidence do you have regarding the value of telework? What data do you have regarding the impact on agency missions and the impact on Federal units? In sum, what evidence do you have that widespread Federal telework is as effective and good for the taxpayer as in-person work?

Mr. Shriver: . . . . when I see inventories reduce from 35,000 2 years ago to 16,000 on retirement claims, when the average processing time goes from 87 days to 61 days, and when average wait times at the call center have dropped by almost 50 percent, those are metrics that are headed in the right direction...

Mr. Timmons: So the metrics that you are pointing to, you are claiming that continued telework is actually moving us in the right direction. Is that a fair classification of what you just said?

Mr. Shriver: What I am saying is that the work arrangements that we have at OPM, which include telework, that is consistent with the performance improvement that we are seeing from our Agency.<sup>108</sup>

Yet, OPM—and no other federal agency—has been able to provide clear data or evidence that telework improves outcomes and helps agencies deliver their missions. There is little evidence that telework improves outcomes. There are, on the other hand, indications that telework is detrimental to agencies’ mission outcomes.

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<sup>107</sup> Letter from Carlos Uriarte, Associate Attorney Gen., to James Comer, Chairman, H. Comm. on Oversight & Accountability (Aug. 8, 2023).

<sup>108</sup> May 22, 2024 OPM Hearing.

### **C. Agencies Testified That Massive Telework Has Hindered Their Missions**

After the initial wave of agency responses to the Committee’s May 18, 2023 letters, the Committee’s Subcommittee on Government Operations and the Federal Workforce held a hearing on September 14, 2023, with four of the responsive agencies: the National Science Foundation, NASA, the NRC, and the Department of Homeland Security.<sup>109</sup> Despite nearly three and a half years of federal telework,<sup>110</sup> members of the Subcommittee uncovered that these agencies were still working to develop performance measurement tools that would allow them to determine the effects of telework.<sup>111</sup>

Testimony at the hearing revealed telework contributed to failures at NASA. During questioning by Chairman Pete Sessions (R-Texas), NASA’s Associate Administrator for Mission Support, Robert Gibbs, admitted that telework was a factor contributing to poor performance and delays on the NASA Psyche asteroid mission, which had been delayed one year<sup>112</sup> in part due to a lack of in-person interactions:

Chairman Sessions: Mr. Gibbs, I do not want to turn this like we have got problems, but I will tell you, as part of the viewpoint that we had, there was a discussion about the [Jet Propulsion Laboratory at the California Institute of Technology] and a particular project called Psyche or Psyche? .... And evidently, as part of the feedback from that, there was an independent review board that was regarding this that pointed to remote and hybrid work policies as contributing factors for the lack of success that it may have accomplished. And it called for more in-person work....

Mr. Gibbs: Yes, sir. **So, Psyche, one of the contributing factors to poor performance on Psyche was telework,** amongst many other contributing factors...<sup>113</sup>

In preparation for the September 14 hearing, Committee staff became aware of a controversy in which the NRC executive director for operations (EDO) was planning to expand telework at the agency even as the Biden White House was urging agencies to increase in-person

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<sup>109</sup> *Oversight of Federal Agencies’ Post-Pandemic Telework Policies: Hearing Before H. Comm. on Oversight & Accountability, Subcommittee on Government Operations and the Federal Workforce*, 118<sup>th</sup> Cong. (Sept. 14, 2023) [hereinafter “Sept. 14, 2023 Subcommittee Hearing”].

<sup>110</sup> See Mar. 17, 2020 OMB Operational Alignment Memorandum.

<sup>111</sup> Sept. 14, 2023 Subcommittee Hearing (Written statement of Mr. Robert Gibbs, Associate Administrator for the Mission Support Directorate, National Aeronautics and Space Administration).

<sup>112</sup> William Thomas, *Psyche Delay Compels JPL To Reckon With Overstretched Staff*, AIP (Nov. 11, 2022).

<sup>113</sup> *Id.* (emphasis added).

work. Under the expanded system, NRC employees would only have to work in-person two days per work period, down from four days per work period. Furthermore, they would have to work in-person as little as four hours.<sup>114</sup>

Stakeholders from the nuclear power industry described existing and potential future negative impacts of expanded telework at NRC to Committee staff.<sup>115</sup> According to these stakeholders, NRC officials and staff were rarely accessible for in-person meetings and discussions. They also described instances in which industry executives would arrive at NRC headquarters for a meeting—only to find none of the agency officials present.<sup>116</sup> The stakeholders contended that the resulting remote conversations lacked the same level of open exchange that existed with in-person meetings, damaging their ability for productive dialogue with their regulator. Stakeholders also referenced that some companies and organizations were finding telework to have adverse effects on young employees and recent hires, and this might reduce NRC’s ability to manage the massive increase in workload expected in the coming years.<sup>117</sup>

Republican NRC commissioners were concerned about the impacts of this plan, and argued the full commission should decide whether it should move forward rather than allowing the EDO to move forward on his own authority. On October 31, 2023 the commissioners disapproved the planned expansion.<sup>118</sup>

The Subcommittee held another telework-related hearing on November 29, 2023, attended by officials from the SSA, Department of Commerce, U.S. Agency for International Development, and HHS.<sup>119</sup> These agencies provided some of the least responsive and tardiest replies to the Committee’s inquiry. During the hearing, Representative Higgins (R-La.) pressed SSA Executive Counselor Oren “Hank” McKnelly on the lack of in-person accessibility at their field offices:

Rep: Higgins:            You say, “Our ability to move work electronically and provide seamless service allows us to operate more efficiently.” But my caseworker is telling me...wait times for processing has increased. In some cases, they are waiting a year to get answers . . . . How do you match what you are describing as your efficiency and performance with what we are seeing in the field back home?

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<sup>114</sup> Briefing by nuclear power industry stakeholders for H. Comm. on Oversight & Accountability staff (Sept. 12, 2023).

<sup>115</sup> *Id.*

<sup>116</sup> *Id.*

<sup>117</sup> *Id.*

<sup>118</sup> Memorandum to Daniel H. Doorman, Executive Director for Operations, NRC from Tomas E. Herrera, Acting Secretary, NRC, STAFF Requirements – SECY-23-0072 – FINAL AGENCY DECISION TO IMPLEMENT THE FLEXIBLE WORK MODEL (Oct. 31, 2023).

<sup>119</sup> *Oversight of Federal Agencies’ Post-Pandemic Telework Policies Part II: Hearing Before H. Comm. on Oversight & Accountability, Subcommittee on Government Operations and the Federal Workforce*, 118<sup>th</sup> Cong. (Nov. 29, 2023).

Mr. McKnelly: ...what I would offer to you is that our field office employees, 26,000 strong, who see the public in person, those individuals report onsite at least 3 days a week.

Rep. Higgins: Mr. Chairman, my time has expired, but let me just close by saying 3 days a week is what we used to call a week off, and that is sort of the mentality that we are combating here, and we are respectfully trying to address.<sup>120</sup>

Representative Boebert (R-Colo.) raised the issue of the impact of telework on new employees:

Rep. Boebert: . . . . So, wouldn't it make more sense for these workers under probation or who have had these disciplinary actions or trainees to work in the office to ensure improvement or to monitor their behavior?

Mr. McKnelly: So, there is authority to grant telework in those particular cases. What I would tell you is what we learned coming out of the pandemic is that our front office workers, specifically the trainees that you are talking about, they did not feel connected to the mission, and they did not feel connected to the teams that they were working with.<sup>121</sup>

The Subcommittee learned that the SSA's telework policies, which led SSA employees to feel not connected, made it apparent that new hires are more connected to the agency's mission and their colleagues when in-office.

Rep. Boebert: It took a pandemic to realize that you cannot train someone from home, that you need to be in person and connected to the team to actually learn how to do their job?

Mr. McKnelly: No, that was the feedback that we got from them. And so, when we had the opportunity to participate in an approach to get those individuals into the office so that they can work together, that is something we do on a regular basis.<sup>122</sup>

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<sup>120</sup> *Id.*

<sup>121</sup> *Id.*

<sup>122</sup> *Id.*

The American people rely on federal agencies—especially the SSA—an agency that is tasked with “provid[ing] financial protection for our nation’s people.”<sup>123</sup> As a result, new hires in a telework posture lacking connection to SSA’s mission is concerning—and the American taxpayer deserves better.

#### **D. GAO Report Confirms Committee’s Finding that Agency Oversight of Telework is Lax**

On November 22, 2024, GAO issued a report entitled *Federal Telework: Selected Agencies Need to Evaluate the Potential Effects on Agency Performance*. This report reviewed telework practices at four agencies, the Farm Service Agency (FSA), the Internal Revenue Service (IRS), U.S. Citizen and Immigration Services (USCIS), and the VBA.<sup>124</sup>

The Committee’s investigation, which sought information from 24 federal agencies and the FDIC, suggests VBA is the only federal agency that currently monitors the effects of telework on its performance.<sup>125</sup> GAO’s report supports the Committee’s finding that most federal agencies do not have adequate systems in place to measure the effects of telework on mission outcomes. GAO found that, of four agencies reviewed, only VBA actively monitored the effects of telework on its mission.<sup>126</sup> For example, IRS “told [GAO] that telework use was not a significant reason for persistent correspondence backlogs.”<sup>127</sup> GAO, however, “found that IRS has not fully evaluated its telework program to identify problems or issues with the program that may exist, or assessed its effects on organizational performance.”<sup>128</sup>

IRS, USCIS, FSA, and VBA officials “generally attributed changes in performance outcomes to factors other than telework, such as staffing levels, funding, new laws, and agency priorities.”<sup>129</sup> Yet, USCIS and FSA, like IRS, have “not yet evaluated telework’s role in agency performance outcomes” either.<sup>130</sup> USCIS explained “that the reason for not conducting an evaluation was largely because of the complexity of identifying how telework alone affects performance.”<sup>131</sup> FSA excused its failure to evaluate telework’s effectiveness “in part because they were unsure of what indicators to use.”<sup>132</sup>

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<sup>123</sup> *About Social Security*, Soc. Sec. Admin. (last visited Dec. 10, 2024).

<sup>124</sup> See generally Gov’t Accountability Off., *Federal Telework: Selected Agencies Need to Evaluate the Potential Effects on Agency Performance* (Nov. 2024) [hereinafter “GAO Federal Telework Report”].

<sup>125</sup> [On file with Committee].

<sup>126</sup> GAO Federal Telework Report at ii.

<sup>127</sup> *Id.* at 28.

<sup>128</sup> *Id.*

<sup>129</sup> *Id.* at 53.

<sup>130</sup> *Id.* at ii.

<sup>131</sup> *Id.* at 41.

<sup>132</sup> *Id.* at ii.

## IV. Biden-Harris Administration’s Struggle to Return Employees to Work

Amid pressure from the Committee and Biden-Harris Administration allies such as Mayor Bowser,<sup>133</sup> the White House attempted to bring federal employees back to work. The White House was met with opposition from federal labor unions and, ultimately, failed to accomplish its goal.

### A. A Halfhearted Attempt to Bring Employees Back

During the 2022 State of the Union address, President Biden called on Americans to “get back to work and fill our great downtowns again with people.”<sup>134</sup> He claimed, “the vast majority of federal workers will once again work in person.”<sup>135</sup>

It took more than a year, however, for OMB to take any related action. Shortly after lifting the Covid-19 Presidential emergency, on April 13, 2023, just a few weeks after the Committee’s hearing with OPM Director Ahuja, OMB issued *Memorandum M-23-15, Measuring, Monitoring, and Improving Organizational Health and Organizational Performance in the Context of Evolving Agency Work Environments* (M-23-15).<sup>136</sup> The memorandum instructed “agencies to assess their work environments, reflecting on what they have learned as they build routines for measuring and monitoring organizational health and organizational performance.”<sup>137</sup> The guidance directed agencies to “increase meaningful in-person work”<sup>138</sup> and develop plans which describe current operational policies, potential changes aimed at improving mission delivery, and the metrics they will use to measure performance—to include the impact of telework.<sup>139</sup> The Biden-Harris Administration had realized that telework had negative effects on agencies—that in-person work, as opposed to telework, is “meaningful.”<sup>140</sup>

M-23-15 served as further evidence that “the vast majority” of federal workers were still not working in person despite the President’s promise from the previous year. In addition, that agencies were only then being instructed to develop metrics to assess the effects of telework undermined DDM Miller’s assertion that the Administration was delivering “effective and efficient telework.”<sup>141</sup>

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<sup>133</sup> Editorial Board, *D.C.’s downtown is comatose. Here’s how to revive it.*, Wash. Post (Nov. 23, 2022) (“The DowntownDC Business Improvement District’s tracking indicates fewer than a quarter of federal workers are back in the office. Mayor Muriel E. Bowser (D) has been imploring the White House to change this. Allowing each agency to set its own rules was a mistake.”).

<sup>134</sup> President Joe Biden, State of the Union Address (March 1, 2022).

<sup>135</sup> *Id.*

<sup>136</sup> M-23-15 Memorandum.

<sup>137</sup> *Id.* at 1.

<sup>138</sup> *Id.*

<sup>139</sup> *See generally id.*

<sup>140</sup> *See generally id.*

<sup>141</sup> Apr. 30, 2024 OMB Hearing.

On July 11, 2023, OMB briefed Committee staff on agency progress implementing M-23-15. In the briefing, OMB stated that “nearly all CFO Act agencies have submitted plans for review, and most are moving to implementation and transition planning.”<sup>142</sup> OMB also stated it anticipated a “minimum of 4-6 days in-person” per two-week pay period.<sup>143</sup> The charged assessment included a description of agencies’ “current policies for telework and related operational policies.”<sup>144</sup>

At a May 16, 2023 hearing, *Overdue Oversight of the Capital City: Part II*, The Committee again highlighted the failure of federal employees to return to the office. During an exchange with Chairman Comer, Mayor Bowser agreed that “Federal workers should once again return to work”:

Chairman Comer: . . . . Do you support the idea that Federal workers should once again return to work?

Mayor Bowser: I absolutely support that, and I think that we can look at the District Government as a guide. We, of course, all experienced the pandemic and the necessary changes to work life and personal life that went along with it.

In addition to answering your questions here, part of my day-to-day job as Mayor of Washington, D.C. is managing 37,000 employees. And while we had modified operations, 40 percent of our employees were never eligible for telework: the minimum of the Metropolitan Police Department, fire and EMS, our public-school teachers who went into classrooms every day of the pandemic or soon after we reopened. I reopened the D.C. government in June 2021, following the previous March where COVID really changed our lives around the world. We have made some allowances, of course. We have more telework than we did before the pandemic, but I require the agencies that report to me to show up three days a week.<sup>145</sup>

After the Committee highlighted the Biden-Harris Administration’s inability to track how many federal employees were not showing up to work, its failure to bring federal employees back to the office, and Mayor Bowser’s criticism of the federal workforce’s continued telework posture, White House Chief of Staff Jeff Zients sent an e-mail to cabinet leadership on August 4,

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<sup>142</sup> Briefing by Off. of Mgmt. and Budget to H. Comm. on Oversight & Accountability staff (July 11, 2023).

<sup>143</sup> *Id.*

<sup>144</sup> *Id.*

<sup>145</sup> *Overdue Oversight of the Capital City: Part II: Hearing Before H. Comm. on Oversight & Accountability*, 118<sup>th</sup> Cong. (May 16, 2023).

2023, stressing the importance of increased in-person work.<sup>146</sup> Zients’s email stated that “aggressively” increasing in-person work was a priority for President Biden.<sup>147</sup> Zients admitted in-person work would allow agencies to better serve the American people: “We are returning to in-person work because it is critical to the well-being of our teams and will enable us to deliver better results to the American people.”<sup>148</sup> Zients further stated, “all of us will benefit from the increases in morale, teamwork, and productivity that come from in-person work.”<sup>149</sup> Zients’s email was sent the same day the Committee sent renewed request letters to agencies about their telework policies and practices.<sup>150</sup>

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<sup>146</sup> Alex Thompson, *Scoop: Biden pushes to end remote work era for feds*, AXIOS (Aug. 4, 2023).

<sup>147</sup> Alex Thompson (@AlexThomp), X, (Aug. 4, 2023, 5:20p.m.) available at <https://x.com/AlexThomp/status/1687574175622316033/photo/1>.

<sup>148</sup> *Id.*

<sup>149</sup> *Id.*

<sup>150</sup> Aug. 4, 2023 Renewed Request.



I wanted to take a moment to recognize the extraordinary amount President Biden, Vice President Harris, each of you, and your teams have accomplished this summer. It's an honor to be part of this incredible team.

As we look towards the fall, and with the end of the COVID-19 public health emergency, your agencies will be implementing increases in the amount of in-person work for your team. This is a priority of the President – and I am looking to each of you to aggressively execute this shift in September and October.

We are returning to in-person work because it is critical to the well-being of our teams and will enable us to deliver better results for the American people. These changes will allow us to harness the benefits of enhanced flexibilities that we experienced during the pandemic, while ensuring we have the in-person time we need to build a strong culture, trust, and interpersonal connections. Newer members of our team – who will be the future leaders of our agencies – will have the face-to-face interaction critical to learning and growing, and all of us will benefit from the increases in morale, teamwork, and productivity that come from in-person work.

For the last two years, the White House has been in-person, which has allowed us to work more nimbly and effectively as a team and with the aim of serving you and your agencies better.

Your engagement will be critical to our success. It will take hard work and focus to make this change, and to consistently communicate with your staff about *why the change matters* —and why this is the right step for your agency and for your mission.

I want to share with you a [video that Secretary Buttigieg sent to the DOT workforce](#), which recognizes the work of the DOT team while clearly communicating the reasons we need more in-person work. I know many of you are doing the same sort of engagements – for example, Ambassador Power sent a note to her team sharing how critical the voice, experience, and presence of the USAID workforce is to taking on the challenges across their mission.

Jason Miller and Evan Ryan will continue to support your efforts. OMB will be gathering data from you on implementation, and we will track and review our progress.

These changes will allow us to come back together — and come back stronger — to best serve the President, the Vice President, and the American people. If at any point, it is helpful to come together to discuss how we're doing, just let me know.

I hope that you and your teams find a moment to take a breath, recharge, and spend some time with friends and family as we look to hit the ground running in September –  
JZ

Following this email directive, the Committee sent a letter to Zients asking for an explanation of the White House's sudden push for increased in-person work by federal employees.<sup>151</sup> On September 19, 2023, Special Counsel to the President Richard Sauber responded with little more than an overview of OMB and OPM guidance on existing telework policies.<sup>152</sup>

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<sup>151</sup> See Letter from James Comer, Chairman, H. Comm. on Oversight & Accountability, to Jeffrey Zients, Chief of Staff, The White House (Aug. 31, 2023).

<sup>152</sup> See letter from Richard Sauber, Special Counsel to the President, The White House, to James Comer, Chairman, H. Comm. on Oversight & Accountability (Sept. 19, 2023).

Zients sent a second email on January 19, 2024, in which he stated, “agencies are not where they need to be and have work ahead” to meet the White House’s goals,<sup>153</sup> demonstrating the White House’s continuous failure to enforce a return to office policy. Zients’s emails appear as admissions that telework was not working, and the Biden-Harris Administration was failing to bring federal employees back to the office. The emails echoed a point Oversight Committee Republicans had long made—that increasing in-person work would better serve the interests of the American people. Representative Palmer (R-Ala.) noted the Biden-Harris Administration’s struggles during an exchange with GSA Director Shriver at a May 22, 2024 hearing, entitled *Oversight of Our Nation’s Largest Employer: Reviewing the U.S. Office of Personnel Management, Pt. II*:

Rep. Palmer: Mr. Shiver, back in August 2023, White House Chief of Staff, Jeff Zients, sent an email to Cabinet leadership calling on them to aggressively increase in-person work, saying that doing so was a priority of President Biden. His email said that doing so would allow the executive branch to deliver better results for the American people by improving teamwork and productivity within the federal workforce. Then in January, he sent a follow-up email demanding that further action be taken, stating that some Federal agencies are not where they need to be in the transition to greater in-office work. Should we take from this that Federal agencies’ operations and performance are not what they should be because Federal employees are not returning to the office? That is a “yes” or “no” because I have several questions about that.

Mr. Shriver: No I do not think that should be your conclusion from that. I think—

Rep. Palmer: Well, now just looking at some of the problems at OPM, it would indicate that there is something wrong there. Either you have got people not able to do their job or they are not there to do the job. You know, why does the government allow people not to come to work when they have a directive from the Office of the President to come back to work?

Mr. Shriver: So, many agencies have hybrid working arrangements...<sup>154</sup>

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<sup>153</sup> Screenshot of Jan. 19 Email by Jeff Zients to Cabinet Officials, provided to Oversight Committee staff by Axios reporter Hans Nichols on Feb. 6, 2024; Hans Nichols, *Scoop: W.H. demands proof from Cabinet officials on return-to-office*, AXIOS (Jan. 19, 2024).

<sup>154</sup> May 22, 2024 OPM Hearing.

Even then, the Biden-Harris Administration had set a low-bar goal of getting teleworking employees back to the office. As DDM Miller testified before the Committee during a April 30, 2024 hearing, *A Focus on Management: Oversight of the Office of Management and Budget*, the Administration’s “expectation [was] for office workers, headquarters and equivalents, that agencies are achieving at least 50 percent” in office time for telework-eligible employees.<sup>155</sup> The data shows, however, that in 9 of 24 agencies telework-eligible employees (remote excluded) were coming to the office less than 50 percent of the time on average as of May 2024.<sup>156</sup> This failure is in part due to unionized federal employees being shielded under telework agreements.<sup>157</sup>

The Committee has continued to press the Administration to understand how agencies were working to bring the federal workforce back to their offices through OMB’s M-23-15. On January 31, 2024, the Committee sent a letter to OMB Director Shalanda Young, asking for documents and information related to agency implementation of M-23-15, to include their telework-related performance metrics.<sup>158</sup> On March 21, 2024, OMB responded with a high-level description of performance measurement, but no specifics regarding telework.<sup>159</sup> OMB told the Committee more information would be provided as part of a report required by the Further Consolidated Appropriations Act of 2024.<sup>160</sup> Finally, on August 9, 2024, OMB released its report to Congress detailing the telework posture of federal agencies during the spring of 2024.<sup>161</sup> As noted, the report showed that OMB and the Biden-Harris Administration still had not succeeded in bringing the federal workforce back to the office as of May 2024.<sup>162</sup>

## **B. Federal Employee Unions Resist Return to Office Efforts**

As discussed above in Section I. C., collective bargaining agreements have entrenched the federal workforce in a telework and remote work posture. President Biden’s decisions and collective bargaining agreements between agencies and federal employee unions stymied his own White House’s attempts to bring federal employees back to work. Upon assuming office, President Biden rescinded a number of executive orders President Trump had issued which sought to rein in abuses by federal employee unions and increase the accountability of federal workers.<sup>163</sup> He also sought to go farther than just returning to the pre-Trump *status quo* – he

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<sup>155</sup> Apr. 30, 2024 OMB Hearing.

<sup>156</sup> See generally OMB Report on Telework and Real Property Utilization.

<sup>157</sup> See Staff, *A running list of agencies’ return-to-office plans*, Federal News Network (Dec. 19, 2023).

<sup>158</sup> Letter from James Comer, Chairman, H. Comm. on Oversight & Accountability, and Pete Sessions, Chairman, Subcomm. on Gov’t Operations & the Fed. Workforce, to Shalanda Young, Director, Off. of Mgmt. and Budget (Jan. 31, 2024).

<sup>159</sup> Letter from Shalanda Young, Director, U.S. Off. Of Mgmt. and Budget, to James Comer, Chairman, H. Comm. on Oversight & Accountability (March 21, 2024)

<sup>160</sup> Jason S. Miller, “Written Response to Questions for the Record,” U.S. OFF. OF MGMT. AND BUDGET (Apr. 30, 2024).

<sup>161</sup> See generally OMB Report on Telework and Real Property Utilization.

<sup>162</sup> *Id.*

<sup>163</sup> Erich Wagner, *Biden Signs Executive Order Killing Schedule F, Restoring Collective Bargaining Rights*, Government Executive (January 22, 2021)

made “empowering” federal workers and federal employee unions key pillars of his management agenda.<sup>164</sup>

President Biden’s overtures were quickly forgotten by his federal employee and union allies when he attempted to curtail telework. Civil servants as a group resisted President Biden’s efforts to limit telework, and his presumed allied actively fought him. One union official stated, “[t]he idea that [federal workers] have to go into the office to please Jeff Zients is absurd.”<sup>165</sup> Unions have filed numerous grievances against federal agencies which sought to increase in-person work.<sup>166</sup> Chairman Comer highlighted the rise in federal employee unions in recent years when questioning Director Shriver:

Chairman Comer: What specific benefits has OPM observed related to increased union membership in Federal agencies?

Mr. Shriver: So, my understanding is that the membership of Federal unions has gone up over the last several years.

Under the leadership of Biden-Harris appointees, the Federal Services Impasses Panel, a body which decides disputes between federal unions and agency management, determined on several occasions that it—rather than agency management—would decide the appropriate amount of telework to take place in at agencies.<sup>167</sup> The Department of Labor (DOL) has also faced pushback from its employees in attempting to decrease telework privileges.<sup>168</sup> Faced with having to work in-person more regularly, Boston-based DOL employees ironically staged an in-person protest at their offices last year in an attempt to achieve concessions from agency leadership.<sup>169</sup> It appears that these employees understood that, at least for certain purposes, showing up to work in person is far more effective than teleconferencing from behind a computer screen.

A review of agency data submissions and announcements show that federal employees who the Biden-Harris Administration were able to bring back to the office were often executives, supervisors, managers, and employees not represented by a union.<sup>170</sup>

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<sup>164</sup> See *The Biden-Harris Management Agenda Vision: Toward an Equitable, Effective, and Accountable Government that Delivers for All: Letter from President Biden*, President’s Management Agenda (last visited Dec. 10, 2024).

<sup>165</sup> Marc Fisher, *supra* note 27.

<sup>166</sup> Letter from David Castillo, Executive Vice President, AFGE Council 260, to Valorie Findlater, Chief Human Capital Officer (H), Nat’l Archives & Records Admin, “Statement of Grievance” (Oct. 24, 2023), *available at* [https://www.afge.org/contentassets/a53e83546cb14abba286ba82f0c73274/telework-policy-grievance\\_2023-10-24.pdf](https://www.afge.org/contentassets/a53e83546cb14abba286ba82f0c73274/telework-policy-grievance_2023-10-24.pdf); Drew Friedman, *AFGE advances grievance, claiming HUD preemptively denied remote work applications*, Fed. News Network (Aug. 24, 2022); John Hewitt Jones, *AFGE files unfair labor practice complaint against EEOC over end of full telework*, Fedcoop (May 10, 2022).

<sup>167</sup> Federal Service Impasses Panel, Case No. 2024 FSIP 047, Internal Revenue Service Office Of Chief Counsel and National Treasury Employees Union, at 14; *see also* Erich Wagner, *Impasses panel preserves telework levels for FEC bargaining unit workers*, Government Executive (Oct. 19, 2023).

<sup>168</sup> Hannah Loss, *Federal workers rally in Boston to protect telework flexibility*, GBH (Mar. 19, 2024).

<sup>169</sup> Jason Miller, *Labor employees show up to protest for more telework*, Fed. News Network (Apr. 1, 2024).

<sup>170</sup> OMB Report on Telework and Real Property Utilization at A3, A1084, A1786, A1965, A2090, A2288, A2465.

The Committee requested information related to how collective bargaining agreements affected bringing federal employees back to work.<sup>171</sup> Most agencies failed to respond. The Committee learned through other means, however, that the agreements were frequently an obstacle. For example, the Department of Education failed to address this question in its response, but information later released by OMB clarified that ED’s negotiations with its unions presented the greatest hurdle to increasing in-person work.<sup>172</sup>

The Department of Housing and Urban Development also failed to respond to the interrogatory about the role of unions in preventing return to work. AGFE, however, filed a grievance when HUD informed staff they would have to work in-person a minimum of two days per pay period.<sup>173</sup>

The Biden-Harris Administration not only failed to bring federal employees back to the office, it made it difficult for the incoming Administration to do so, as part of a broader effort to “Trump-proof” the federal government. The American people, who elected Donald Trump to make the government accountable, deserve better.

## V. Conclusion and Recommendations

The existing levels of federal telework and remote work are problematic, as are the collective bargaining agreements that purport to cement many of these arrangements in place well into the incoming Trump Administration—and even beyond.

The Biden-Harris Administration was largely unresponsive to Committee information requests about the degree of telework and remote work they’ve employed, and any evidence concerning the impact of these stay-at-home policies. But based on the limited data it provided—as well as information gleaned from OPM’s annual, statutorily-required reports on federal telework—it can be concluded that the rampant use of telework is likely underreported, even the reported levels are excessive, there is little evidence that it is enhancing productivity or addressing recruitment and retention gaps, and there is evidence it is harming agency missions and citizen-facing services.

The telework data reported by federal agencies is overwhelmingly reported via manual means, based on employee self-reporting, or the assumption that individual employee telework agreements are being followed to the letter. Managers have few incentives to ensure compliance, since it’s notoriously difficult to discipline federal workers, including those who violate telework agreements (or shirk their duties while “working” from home).

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<sup>171</sup> May 18, 2023 Letters.

<sup>172</sup> OMB Report on Telework and Real Property Utilization at A1082-A1087.

<sup>173</sup> Drew Freidman, *AFGE advances grievance, claiming HUD preemptively denies remote work applications*, Fed. News Network (Aug. 23, 2022), available at <https://federalnewsnetwork.com/unions/2022/08/afge-advances-grievance-claiming-hud-preemptively-denied-remote-work-applications/>.

Relative to the private sector, the federal workforce broadly does not have a recruitment and retention problem. Compared to the vast majority of the private sector, the federal government as an employer sees lengthy applicant lists for job openings and the quit rate is extremely low. To be sure, there are recruitment and retention challenges for certain federal occupations. Some of these positions, however, are not even eligible for telework, such as U.S. Border Patrol agents. The other positions represent a small portion of the workforce. Even there, it is not clear from the data how much telework is helping with such isolated shortages. And, in any case, that would in no way justify keeping broad swaths of the entire federal workforce at home.

Some agencies have reported to OPM that they are saving money by using less office space. But the federal government has plenty of space to house these employees. Uncle Sam retains a massive amount of underutilized space, both owned and leased. GAO has reported on this situation for decades. So, unless and until these properties are disposed of, there is no real savings to be had from keeping them empty.

Existing agency agreements with federal employee unions designed to lock in telework and remote work arrangements pose a potential hurdle to efforts by the incoming Trump Administration to bring federal workers back to the office. The wording of these agreements is subject to interpretation, as is, presumably, their legality. But that they could be an obstacle at all should make us revisit the purpose and the wisdom of federal collective bargaining, which was opposed by President Franklin Roosevelt, not authorized until the Kennedy Administration, and codified in current form even more recently.

Unlike private sector unions, federal employee unions don't exist to increase workers' share of company profits. And they aren't negotiating with corporate management. They are trying to extract concessions from the people's elected representative, the President of the United States and his agency appointees, who were elected to run the executive branch as effectively and efficiently as possible. And if President Trump thinks bringing federal employees back to the office will help him achieve what voters elected him to do, we need to consider whether it makes sense for him to be blocked from doing so by the people whose jobs are funded by those same voters. And we need to ask whether democracy is best served if a duly elected President is forced to manage the executive branch under arrangements set by his predecessor.

## **Recommendations**

### ***Administrative***

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1. Base telework and remote work policies on achievement of mission outcomes, not employee preferences or union demands.
2. Establish automated systems for tracking the use of telework and remote work, and create clear, measurable metrics to evaluate its costs and benefits.
3. Impose more frequent and timely reporting requirements on agency-level telework, to better inform Executive Branch leaders, Congress and the public.

4. Use the White House and central management agencies to implement an enterprise-wide approach to telework and remote work that prioritizes the public interest. Do not permit a telework bidding war among agencies looking to attract federal workers that transfer between them based on which will let them stay home the most.
5. Align the federal property footprint with the government's office space needs. Dispose of unneeded property and terminate unnecessary leases, while optimizing use of the space that remains.

### *Legislative*

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1. Introduce and enact a new version of the SHOW Up Act, restoring agency telework to no more than pre-pandemic levels. Only permit higher levels at agencies that make a convincing, measurable case for doing.
2. Consider legislation disallowing collective bargaining over federal employee telework.
3. Consider legislation that would open to renegotiation at the start of each new Presidential term all existing collective bargaining agreements with federal employees.
4. Consider legislation to pay all remote federal employees at the Rest of United States locality pay rate, to encourage a broader geographic dispersion of the federal workforce, and to reduce its cost to taxpayers.