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April 26, 2022

Honorable Mike Quigley
Chairman
House Appropriations Committee
Financial Services and General
Government Subcommittee
2000 Rayburn House Office Building
Washington, D.C. 20515

Honorable Chris Van Hollen
Chairman
Senate Appropriations Committee
Financial Services and General
Government Subcommittee
Room S-128, The Capitol
Washington, D.C. 20510

Dear Chairman Quigley and Chairman Van Hollen:

On behalf of the American Federation of Government Employees, AFL-CIO, (AFGE) which represents more than 700,000 federal employees who serve the American people in 70 different agencies, this letter reiterates our priorities for the FY 2023 Financial Services and General Government Appropriations bill “FSGG Appropriation,” each of which are described with accompanying proposed bill language in four attachments.

- 1) **Please include language in the FY 2023 FSGG Appropriations bill that adjusts federal employee pay by 5.1 percent.** Wages and salaries paid to federal employees are governed by statute. The law governing the General Schedule pay system calls for an annual across the board adjustment to base salaries equal to the Employee Cost Index (ECI) measure minus 0.5 percentage points. The January 2023 ECI adjustment should be 4.6 percent; therefore, the federal employee 2023 pay adjustment should be 5.1 percent which includes an additional 1 percent for locality increases. At a minimum, the long-standing tradition of parity between the rate of adjustment for civilian and military pay should be followed for 2023. For additional information or questions, please contact Julie Tippens at julie.tippens@afge.org.
- 2) **Please carry forward section 741 prohibiting public-private competitions pursuant to Office of Management and Budget Circular A-76.** Despite previous Congressional direction, DoD and other federal agencies are not prepared to conduct viable A-76 competitions, something that the Army secretary has acknowledged. Disruptive A-76 competitions led to the notorious scandal involving the mistreatment of wounded warriors at Walter Reed Army Medical Center, which came to light in 2007. Congress responded by enacting annual appropriations restrictions that prohibit A-76 competitions, initially at military medical treatment facilities, and later at the Department of Defense (as currently reflected in Fiscal Year 2010 NDAA section 325), and finally throughout the federal government. Section 325 of the FY 2010 NDAA made Congressional findings on the flaws of public-private competitions as devised by OMB Circular A-76 and implemented within DoD. Key areas of concern included repeated GAO and DOD Inspector General findings that

“savings” were overstated, largely due to double-counting of in-house overhead, requirements for growth after the competitions, and failure to account for the substantial investment costs. The competitions were disruptive to missions and morale, often taking two years or longer. There was insufficient transparency over services contracts through contractor inventories and budget submissions, and no enforcement mechanisms in place to ensure contractors did not take on inherently governmental and other high risk or unlawful types of contracts. To date, the flaws have not been addressed as exemplified by services contract management remaining on GAO’s list of high risk issues. See, GAO 21-267R, “SERVICE ACQUISITIONS: DoD’s Report to Congress Identifies Steps Taken to Improve Management But Does Not Address Some Key Planning Issues” (Feb. 22, 2021). For additional information or questions, please contact John Anderson at john.anderson@afge.org.

- 3) **Please add in a new provision prohibiting the use of appropriated funds to override collective bargaining agreements.** The Trump Administration’s efforts to override collective bargaining agreements with Executive Agencies have been renewed by some Members of Congress and Senators, notwithstanding strong opposition from unions and the inconsistency of these legislative proposals with President Biden’s management agenda, which recognizes the importance of collective bargaining to employee morale and mission effectiveness. While there is little likelihood these provisions will pass the House, they could get through the Senate. Accordingly, it is important to head off these proposals in the appropriations process. For additional information or questions, please contact John Anderson at john.anderson@afge.org.
- 4) **Office of Personnel Management (OPM) funding.** AFGE appreciates the Administration’s FY 2023 budget request for OPM. That request, in part, substantially increases the OPM direct appropriation line for employee services, merit system compliance, human capital management and modernization, financial and information management, and executive and administrative services functions.

For too long, OPM has had to “pass the cup” to agencies for reimbursement for some of these services. This detracts from OPM’s mission to recruit, retain and honor a world-class workforce for the American people. The outmoded reimbursable services model used to fund much of OPM adversely affects OPM’s core function of ensuring and maintaining a merit-based civil service and has weakened the financial viability of the agency. While some OPM operations will likely remain reimbursable for the foreseeable future, a civil service management agency should not have to seek reimbursement from agencies to perform its statutory functions.

The Administration’s budget proposal for OPM seeks \$225 million in direct appropriations for FY 2023. This is a 50% increase over the FY 2021 enacted amount of \$150 million. However, the Administration projects that OPM’s reimbursable program for the central services described will decline from \$376 million to \$190 million over the same period. This will leave OPM with only total

obligation authority of \$415 million for FY 2023, which is a decrease of \$111 million from FY 2021. This is reflected in OPM's FTE count which will decline for the central service accounts from 1743 in FY 2021 to only a projected 1610 in FY 2023.

OPM was already woefully understaffed in FY 2021, and while AFGE applauds the Administration's efforts to rely more on appropriated rather than reimbursable accounts at OPM, the \$225 million requested for FY 2023 is inadequate. Accordingly, AFGE recommends that for FY 2023, OPM receive direct appropriations of \$300 million. AFGE estimates this will allow OPM to add an additional 300 FTE to its existing workforce, which will still leave the agency in an extremely lean staffing posture but will further the initiative to rely less on reimbursable accounts and restore the ability of OPM to perform its statutory functions without resorting to a need to "pass the cup" to fund essential services. For additional information or questions, please contact Daniel Horowitz at daniel.horowitz@afge.org.

5) Law Enforcement Officers Equity Act

AFGE strongly urges you to appropriate funds to support the enactment of H.R. 962 / S. 1888, the "Law Enforcement Officers Equity Act," introduced by Representatives Pascrell (D-NJ), Garbarino (R-NY), Connolly (D-VA), and Fitzpatrick (R-PA) and Senator Cory Booker (D-NJ) and Senator Rob Portman (R-OH). This bill expands the definition of a federal Law Enforcement Officer (LEO) to include officers who serve in several agencies that are currently excluded from the definition, including but not limited to the: U.S. Veterans Administration, Department of Defense, FBI, Federal Protective Service, U.S. Postal Inspector Service, National Institutes of Health, U.S. Mint, Government Publishing Office, and Bureau of Engraving and Printing. By expanding this definition, it would make these officers eligible for "6(c)" benefits that are enjoyed by other federal officers and allow for early retirement and enhanced pension benefits. This would greatly help with recruitment and retention at the impacted agencies, which is especially important for these agencies considering the specialization each of their police departments have. Examples of this include VA Police and the detailed crisis intervention training they receive to prevent veteran suicide at VA facilities, DoD officers who specialize in preventing domestic violence on military bases, and the Special Agents with the IRS who are both trained in tax crimes and must meet the demands of LEOs. For questions or more information please contact Fiona Kohrman at fiona.kohrman@afge.org.

6) Federal Firefighter Fairness Act

AFGE strongly urges you to appropriate funds to support the enactment of H.R. 2499 / S. 1666, the "Federal Firefighter Fairness Act." This bipartisan bill would bring parity for federal firefighters with their state, county, and municipal counterparts by creating an automatic presumption of disability for workers' compensation for firefighters who develop heart disease or certain forms of cancer. For questions or more information please contact Fiona Kohrman at fiona.kohrman@afge.org.

Thank you for your consideration. Should you or your staff have any questions, please contact John Anderson at john.anderson@afge.org, Julie Tippens at julie.tippens@afge.org, Daniel Horowitz at daniel.horowitz@afge.org or Fiona Kohrman at fiona.kohrman@afge.org.

Sincerely,

A handwritten signature in blue ink that reads "Julie N. Tippens". The signature is written in a cursive style with a blue ink color.

Julie N. Tippens
Director of Legislation