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United States Senate

COMMITTEE ON SMALL BUSINESS & ENTREPRENEURSHIP

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December 13, 2023

The Honorable Isabella Guzman  
Administrator  
U.S. Small Business Administration  
409 3<sup>rd</sup> Street, SW  
Washington, D.C. 20416

Dear Administrator Guzman,

Across agencies, federal employee unions are fighting tooth and nail to stop agencies from forcing employees to return to work. Despite your agency's July 13 directive to bring back another wave of SBA employees to the office—a move which, albeit modest, deserves recognition—your agency's headquarters were found to have an occupancy rate of *just nine percent*.<sup>1</sup> This, despite White House Chief of Staff Jeff Zients calling on you and the rest of President Biden's Cabinet in August "to aggressively execute [return to the office policies] ... in September and October."<sup>2</sup>

The local chapter of the American Federation of Government Employees (AFGE), Local 228, is not on the same page. It challenged your agency's July 13 directive at the Federal Service Impasses Panel.<sup>3</sup> The president of AFGE Local 228 is quoted as saying "more telework and remote work should be a feature of the post-pandemic workplace."<sup>4</sup>

Meanwhile, most of us agree the costs of remote work can be substantial. Even Mr. Zients agrees, "returning to in-person work ... is critical to the well-being of our teams and will enable us to deliver better results for the American people."<sup>5</sup> Despite what federal employee unions might think, the costs of delays and denial of services is a high price, one the American people should not be forced to pay.

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<sup>1</sup> GOV'T ACCOUNTABILITY OFF. REP., data on file with sender shared 12/1/2023.

<sup>2</sup> Brett Samuels, *White House urges federal agencies to increase in-person work*, THE HILL (Aug. 4, 2023), <https://thehill.com/homenews/administration/4138445-white-house-urges-federal-agencies-to-increase-in-person-work/>.

<sup>3</sup> Jory Heckman, *AFGE takes SBA office re-entry plans to impasses panel*, FEDERAL NEWS NETWORK (Aug. 2, 2022), <https://federalnewsnetwork.com/workforce/2022/08/afge-takes-sba-office-re-entry-plans-to-impasses-panel-over-remote-work-policy/>.

<sup>4</sup> *Id.*

<sup>5</sup> Alex Thompson, *Scoop: Biden pushes to end remote work era for feds*, AXIOS (Aug. 4, 2023), <https://www.axios.com/2023/08/04/biden-end-remote-work-federal-employees>.

The shockingly high vacancy rate at your headquarters is particularly concerning for small business owners seeking Small Business Administration (SBA) assistance and customer service. The SBA has, over the course of multiple administrations, decided to downsize district office support, while growing staff at the Washington, D.C. headquarters. My staff has learned the SBA's workforce in Iowa has seen a 300 percent reduction over eight years. These positions are alleged to have been relocated to the D.C. headquarters, where teleworking is far more pervasive.

But the American people are paying in a different way, too. As you know, the federal government authorizes "taxpayer-funded union time," or "official time," a practice through which federal employees get paid as if they are working for their agency in their official capacity. However, in reality they are working for their union, often against the interests of the agency and American taxpayer.<sup>6</sup>

While the Office of Personnel Management (OPM) used to publish annual reports detailing the cost to taxpayers of each agency's use of taxpayer-funded union time authority, the Biden administration has yet to publish such a report, the most recent having been published in October of 2020.<sup>7</sup> In fact, the Biden OPM is so intent on covering up the true cost of taxpayer-funded union time, it has not only stopped publishing reports, it has "taken down a page on its website that served as a repository of information about 'official time' use in federal government for over 10 years" entirely.<sup>8</sup>

In light of the Biden administration's unprecedented lack of transparency, and as Ranking Member of the U.S. Senate Committee on Small Business and Entrepreneurship, my role is to ensure your agency is properly utilizing remote work in ways which truly support small businesses in Iowa and across the United States—not simply because bureaucrats don't want to return to the office.

Therefore, I ask for you and your staff to provide the following documents and information, and answer the following questions no later than January 12, 2024.

1. A briefing regarding the current status of the labor dispute between the SBA and AFGE Local 228;
2. A briefing on what steps you and your team took in September and October 2023, and since, to "aggressively execute" a plan "implementing increases in the amount of in-person work for your team."<sup>9</sup> This should include, at minimum:

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<sup>6</sup> 5 U.S.C. § 7131 (1978).

<sup>7</sup> U.S. OFF. OF PERSONNEL MGMT, TAXPAYER-FUNDED UNION TIME USAGE IN THE FEDERAL GOVERNMENT FY2019, <https://www.opm.gov/labor-management-relations/taxpayer-funded-union-time-fy-2019.pdf>.

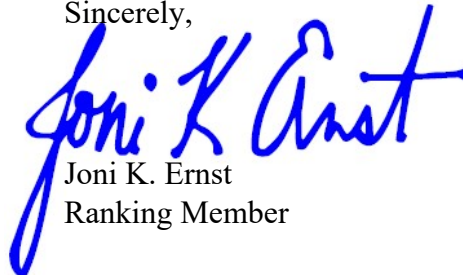
<sup>8</sup> Maxford Nelsen, *Biden Administration Covering Up Taxpayer-Funded Union Activities in the Federal Workforce*, FREEDOM FOUNDATION (Nov. 27, 2023), <https://www.freedomfoundation.com/labor/biden-administration-covering-up-taxpayer-funded-union-activities-in-the-federal-workforce/#:~:text=%E2%80%9COfficial%20time%E2%80%9D%20%E2%80%94%20also%20known.and%20with%20loss%20of%20pay.>

<sup>9</sup> Brett Samuels, *White House urges federal agencies to increase in-person work*, THE HILL (Aug. 4, 2023), <https://thehill.com/homenews/administration/4138445-white-house-urges-federal-agencies-to-increase-in-person-work/>.

- a. The number of employees who increased their in-person attendance at the office;
  - b. The metrics your agency is using to evaluate the success of your plan to increase the SBA workforce's in-person attendance;
  - c. Copies of all emails or similar correspondence with representatives of AFGE Local 228 or other collective bargaining units the SBA recognizes; and
  - d. What follow-on steps your agency is planning if your plan is unsuccessful in returning the SBA workforce to the office?
3. A copy of the 2017 Master Labor Agreement and any successor agreements to which the SBA is currently a party;
  4. How many hours and how much taxpayer money each fiscal year has been spent on taxpayer-funded union time, as defined by 5 U.S.C. § 7131, since Fiscal Year 2020? Information responsive to this question should include:
    - a. Specific information related to time and money spent on behalf of AFGE Local 228;
    - b. The overall time hours and dollars SBA spent on taxpayer-funded union time; and
    - c. All invoices the SBA received for funding authorized in accordance with 5 U.S.C. § 7131.
  5. How many SBA employees who predominantly work remotely from areas outside of the nation's capital region are receiving compensation based on Washington, D.C. locality pay? Information responsive to this inquiry should include, with appropriate redactions to protect personally identifiable information, the work locations of each federal employee who signed a remote work agreement on or since March 13, 2020.
  6. The General Services Administration (GSA) has recently taken steps to reduce its footprint by 3.5 million square feet, saving taxpayers \$1 billion. What, if any, actions are being taken or planned to reduce underutilization of building and office space in light of the finding that your agency headquarters has a nine percent occupancy rate?

The American people deserve a federal workforce that shows up for what Americans pay them to do. Thank you for your time and attention to this important request. If you or your staff have any questions or concerns, please feel free to reach out to me or my staff at (202) 224-3254.

Sincerely,



Joni K. Ernst  
Ranking Member