

May 30, 2024

Lieutenant General Telita Crosland
Director
Defense Health Agency
1200 Defense Pentagon
Room 3D886
Washington, D.C. 20301

Dear Lieutenant General Crosland

I am concerned you are undermining the mission of the Defense Health Agency (DHA) to placate the parochial interest that is DHA's employee unions.

Just last month, news broke that the DHA cemented a Master Labor Agreement (MLA) with a union representing 38,000 DHA employees across the greater Washington, D.C. area.¹ Among the provisions of the MLA was authorization for the covered DHA employees to "telework for up to ten (10) days per pay period."² As you know, there are 10 days in a pay period.

These 38,000 employees are not alone in the extent to which they are permitted to telework. The *baseline* amount of telework DHA authorizes is "up to 8 days per biweekly pay period," or 80 percent of the time.³

What's more, this agreement is remarkably permissive when it comes to the requirements teleworking employees must meet. There is no requirement to verify from where the employee will be teleworking.⁴ DHA is expected to take it on faith that the employee is being forthright and honest with the DHA about their location when they are on permanent telework, creating a situation ripe for locality pay fraud. Of note, when the Office of the Inspector General of the Architect of the Capitol analyzed its locality pay practices, it found a full 80 percent of its sampled employees received improper locality pay.⁵ There is, of course, included in the MLA an

¹ American Federation of Government Employees, *AFGE, DHA Reach Interim Master Agreement*, AFGE (May 28, 2024, 10:00AM) <https://www.afge.org/article/afge-dha-reach-interim-master-agreement/>.

² American Federation of Government Employees, AFL-CIO & Defense Health Agency (2024). *Interim Master Labor Agreement*. https://www.afge.org/globalassets/documents/generalreports/2024/interimconsolidatedmasteragreement_4-19-24.pdf.

³ Defense Health Agency, U.S. Dep't of Defense, Administrative Instruction Number 1000.01, Telework Program and Remote Work (Feb. 7, 2023).

⁴ American Federation of Government Employees, AFL-CIO & Defense Health Agency (2024). *Interim Master Labor Agreement*. https://www.afge.org/globalassets/documents/generalreports/2024/interimconsolidatedmasteragreement_4-19-24.pdf.

⁵ Office of the Inspector General, Architect of the Capitol, AOC Locality Pay for Remote Employees (2024).

expectation that “the employee is not engaging in dependent care activities while performing official duties.”⁶ But there is no mechanism to verify teleworking employees are abiding by this requirement, or any other standards. In fact, the MLA *undermines* new managers who may step into oversight roles by affirmatively stating “new agreements are not required when a new supervisor is assigned to an employee without a change in position.”⁷

It comes as no surprise to me that the union representing the DHA employees was able to get such a sweetheart deal.

Federal employee unions have been swindling the American taxpayer out of millions upon millions of dollars, year after year. In FY2019—the last year there is data—the Department of Defense (DoD) spent more than \$21 million dollars on taxpayer-funded union time, the highest amount of any agency.⁸ The unions also billed an additional \$8.4 million in government property and expenses, (of which a negligible amount was reimbursed), again, the highest of all the agencies.⁹

While I presume not all of that money was spent by the DHA employees, neither the DoD nor the Office of Personnel Management (OPM) have agreed to publish any information related to use of taxpayer-funded union time, despite OPM previously publishing reports on an annual basis. For that reason, the new frequency and lack of guardrails around how, whether, and when the DHA’s employees—including those taking advantage of taxpayer-funded union time—will be teleworking, leads me to be skeptical that locality pay determinations and requests for taxpayer-funded union time made by employees covered under the MLA will be accurate.

I understand telework can be helpful for agencies when used with strategic guardrails in place. However, as with anything, the excessive use of this option without sufficient oversight can lead to counterproductive outcomes. Clearly, as it relates to this MLA, that principle is being ignored.

Therefore, to assist me in my oversight work, please answer the following questions as soon as possible but no later than June 13, 2024:

1. How much taxpayer-funded union time—and at what expense—did the local union responsible for negotiating this MLA local log with the DHA since April 5, 2023?
2. What was the cost to the DHA of taxpayer-funded union time—both in value of government property and other expenses as well as compensation—in Fiscal Years 2023 and 2024?
3. What percent of requests for reimbursements for taxpayer-funded union time logged in Fiscal Years 2023 and 2024 did the DHA reject? How much money did the DHA reject?
4. In Fiscal Years 2023 and 2024, were the DHA employees paid—either through taxpayer-funded union time reimbursements or otherwise—for their part in negotiations against returning to the office?

⁶ American Federation of Government Employees, AFL-CIO & Defense Health Agency (2024). *Interim Master Labor Agreement*. https://www.afge.org/globalassets/documents/generalreports/2024/interimconsolidatedmasteragreement_4-19-24.pdf.

⁷ Id.

⁸ U.S. Office of Personnel Management, *Taxpayer-Funded Union Time Usage in the Federal Government: Fiscal Year 2019 (2020)*.

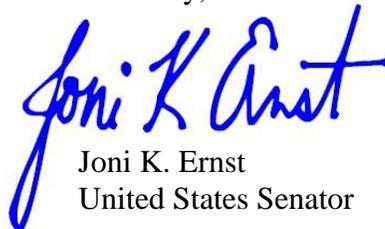
⁹ Id.

5. In 2023, what was the average daily occupancy rate—calculated using the formula laid out in the Government Accountability Office Report “Agencies Need New Benchmarks to Measure and Shed Underutilized Space” (GAO-24-107006)—of each office owned or leased by the DHA?
6. Over the course of calendar year 2023, what percentage of the DHA workforce teleworked an average of more than 4 days per pay period?
7. What steps is DHA taking to monitor and verify the locality-based compensation packages of its routine teleworking employees?
8. Based upon available IT login information, VPN tracking, employee traffic logs, and other measurable and observable factors, how many teleworking employees spend the majority of their working hours in a region with a lower locality pay rate than where their designated primary workstation is located but continue to receive the higher locality pay associated with the primary workstation?

Time and again, when federal employees are permitted excessive telework without guardrails, it results in slower services for those the agency was created to support. Our servicemembers deserve nothing less than the most efficient and effective processes to get what they need. Prioritizing those who don't want to show up to work over the health care of our servicemembers is disgraceful and unacceptable.

Thank you for your attention to this request, please do not hesitate to contact me or my staff at 202-224-3254 if you have any questions or would like to discuss further.

Sincerely,



Joni K. Ernst
United States Senator