



June 26, 2026

Mr. Scott Kupor  
Director, Office of Personnel Management  
1900 E. ST NW  
Washington, D.C. 20415-1000

Re: Confidential Government Information Nondisclosure Agreement (Docket No. OPM-2026-0100)

Dear Mr. Kupor,

The Partnership for Public Service submits these comments on the Office of Personnel Management's notice for comment "Confidential Government Information Nondisclosure Agreement" (Docket No. OPM-2026-0100, May 27, 2026). The Partnership is a nonprofit, nonpartisan organization committed to building a better government and a stronger democracy. We have advocated across administrations for federal laws, regulations and programs that improve the government's ability to attract, hire and retain a talented workforce that effectively serves the public.

The Partnership recognizes the importance of protecting legitimately sensitive government information and acknowledges that federal employees have important obligations to preserve the integrity of agency operations, protect privacy and comply with applicable laws governing disclosure. Implementing an NDA just adds another potentially confusing layer to existing laws and policies. Additionally, we are deeply concerned that the NDA proposal will create a chilling effect on lawful and essential whistleblowing, relies on a confusing and overly broad definition of what constitutes confidential government information, and has a concerning enforcement framework.

For the reasons discussed below, we urge OPM to withdraw the proposal and seek instead to work with the Office of Government Ethics and Office of Special Counsel to strengthen and streamline disclosure procedures and ethics frameworks to hold employees accountable for complying with existing laws.

### **Proposed NDA is Unnecessary Given Existing Laws, Rules and Processes and Will Have a Severe Chilling Effect**

The proposal attempts to superimpose a governmentwide nondisclosure framework on top of an already extensive system of statutes, regulations, ethics rules and agency-specific requirements governing the handling of sensitive information. For example, federal employees are already bound to not disclose nonpublic information under various existing laws and



policies, including the Federal Records Act, Privacy Act, and Standards of Ethical Conduct for Employees of the Executive Branch, in addition to the ethics training that they must undergo.

While nondisclosure agreements are used in certain limited contexts, such as for classified information, OPM has not demonstrated that a governmentwide NDA is necessary and that existing authorities are insufficient. As such, the proposal imposes unnecessary redundancies, confusing accountability measures and appears to be a “solution” in search of a problem.

More importantly, the proposed NDA risks discouraging lawful disclosures that are essential to government accountability. Laws like the Whistleblower Protection Act and Whistleblower Protection Enhancement Act exist to safeguard confidential information and protect the rights of public servants to report waste, fraud, abuse and threats to public health and safety. The proposal fails to clearly explain how the NDA would interact with these existing frameworks.

Whistleblower protections are a vital tool in keeping the federal government honest and accountable to the American people. Introducing a sweeping NDA will deter well-meaning employees from exposing wrongdoing out of fear of accidental violations and risks stifling legitimate whistleblowing claims.

Particularly concerning is that this proposal coincides with a dramatic drop in confidence by federal employees to report a suspected violation of law, rule or regulation without experiencing retaliation. Based on results from the Partnership's 2025 [Public Service Viewpoint Survey](#), respondents noted that they do not feel they can report illegal behavior to their leadership without retaliation.

- When asked “How confident are you that you can report a suspected violation of a law, rule or regulation without experiencing retaliation?,” only 22.5% of respondents expressed confidence.
- In the 2024 Federal Employee Viewpoint Survey administered by OPM, when presented with the statement “I can disclose a suspected violation of any rule, law, or regulation without fear of reprisal,” 71.5% answered in the affirmative.

Regardless of the reasons for this decline, the trend underscores the importance of strengthening employee confidence in lawful disclosure channels. Based on these results, any administration and Congress should be encouraging the reporting of waste, fraud, abuse and illegal behavior, not creating new barriers that may discourage employees from speaking up.

### **Definition of “Confidential Government Information” is Confusing and Overly Broad**

The unprecedented scope of the proposal is particularly troubling. OPM defines “Confidential Government Information” as “all nonpublic, confidential, or proprietary information, to include, but not be limited to, information relating to internal agency operations, personnel matters, procurement processes, or any sensitive, pre-decisional or deliberative material that



is not currently publicly available and should not be disclosed under applicable law.” This definition is both sweeping and imprecise, which will inevitably breed confusion.

Adding a new, confusing regulatory layer on top of existing statutory obligations will create challenges not only for employees, but also for managers, human resources professionals, ethics officials and agency counsel responsible for implementation and enforcement. For example, it is entirely plausible that employees, supervisors and agency officials will reasonably interpret the definition of “confidential government information” differently, resulting in inconsistent application across agencies and even within the same organization.

The scale of the definition also raises significant operational concerns. For example, federal employees routinely collaborate across offices, engage with stakeholders and communicate with oversight entities. Additionally, the Freedom of Information Act already allows for a wide variety of disclosures to the public based on the premise that they deserve transparency about how the government is working and government decision-making. It is unclear how the NDA intersects with the FOIA law and the public need for transparency into taxpayer funded operations. If employees are uncertain about what information may be discussed or shared, the result will be confusion, inefficiency and excessive caution that hampers mission delivery. Instead of focusing on meeting their agency’s mission to serve the public, civil servants will not know what they can or cannot discuss in the course of their everyday work.

This uncertainty is compounded by the proposal’s presentation as “optional” for agencies but implied mandatory signature of compliance for employees. The proposal says the form is optional, meaning agencies are not required to use the NDA. However, for the agencies that choose to use the form, the draft agreement warns employees that failure to sign “may result in removal from federal service and potential debarment.” This creates the appearance that participation may be effectively mandatory for employees at agencies that elect to use the form, despite the supposedly optional nature of the proposal. Such ambiguity is likely to generate confusion and inconsistent implementation throughout the federal workforce. The Partnership strongly believes that no steps should be taken to punish employees who do not sign an NDA but are otherwise entirely in compliance with existing laws.

Although OPM points to the use of NDAs in the private sector, a governmentwide NDA covering the federal civilian workforce would represent a significant departure from longstanding federal personnel policy. OPM has not established a compelling justification for such a dramatic expansion and the confusion it would create is not worth the risks outlined above.

### **Proposed Enforcement Framework is Concerning**

The proposal's enforcement mechanisms raise additional concerns because they are built upon a definition that is itself vague and expansive. At best, this would make it challenging to assess if or when a violation has occurred and result in uneven application across government.



At worst, this would create a structure that is rife for abuse, politicization and unethical enforcement.

The proposed five-year post-employment restriction is both too expansive and unnecessary, particularly because OPM portrays the NDA as being uniquely responsive to a selection of recent leaks. There are already post-employment restrictions carrying penalties that are adjudicated through OGE – it is unclear how the proposed NDA fits with that existing enforcement scheme. Also concerning is the introduction of a political gatekeeping mechanism whereby former federal employees would be prohibited from disclosing covered information absent written permission from an “Authorized Agency Official.” Because the proposal gives agencies the discretion to designate who that official will be, this again creates an uneven and confusing enforcement mechanism ripe for politicization and misuse, resulting in the restriction of legitimate information-sharing long after an employee leaves government.

The NDA and its enforcement mechanisms are perhaps most concerning when coupled with recent proposed changes to Suitability and Fitness determinations and appeals processes that would extend suitability standards to post-employment conduct and shift appeals from the Merit Systems Protection Board to OPM. Taken together, these developments raise legitimate questions about whether the NDA could become a tool for coercion, retaliation or selective enforcement.

## **Conclusion**

The proposed NDA risks undermining transparency, discouraging lawful whistleblowing, complicating agency operations, creating uncertainty throughout the federal workforce and harming future retention and recruitment. When that happens, the public knows even less about how their government works and how their tax dollars are being spent. Instead of implementing a sweeping, unnecessary NDA, OPM should instead focus on reinforcing existing legal and ethical frameworks and supporting accountability mechanisms that encourage employees to report wrongdoing through appropriate channels.

For the reasons outlined above, we respectfully urge OPM to withdraw the proposed “Confidential Government Information Nondisclosure Agreement” and refrain from establishing a governmentwide NDA. Thank you for the opportunity to submit these comments.

Sincerely,

Max Stier  
President & CEO  
Partnership for Public Service