



## UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

The Director

**APR 23 2020**

The Honorable Joni K. Ernst  
United States Senator  
730 Hart Senate Office Building  
Washington, DC 20510

Dear Senator Ernst:

Thank you for your letter, dated March 11, 2020, signed by you and your colleagues concerning the hiring and staffing challenges at the U.S. Department of Justice (DOJ), Federal Bureau of Prisons (BOP).

In your letter you noted staffing levels at BOP have dropped and described the impact of this circumstance on the Bureau. In addition, you have requested the U.S. Office of Personnel Management (OPM) consider authorizing direct hire authority (DHA) to all BOP facilities in response to this situation.

I want to clarify a statement in your letter that applicants to BOP must be processed through OPM before the applications are made available to individual BOP facilities for potential hire. Although OPM, as the entity that delegated examining authority to BOP (pursuant to 5 U.S.C. 1104(a)(2)), retains oversight authority over BOP examining processes (5 U.S.C. 1104(b)(2)), it does not require agencies to process individual applicants through OPM before they may be sent to BOP hiring units. The examining activities are supervised by the agency's own delegated examining unit.

In this case DOJ and the BOP's Human Resources organization is responsible for hiring at BOP units. OPM continues to work with BOP as we consider DHA as a remedy to the issues you raised. DOJ requested DHA from us on October 4, 2019, and OPM has had discussions with BOP concerning their request. To date, we are unconvinced that DHA is the best remedy to BOP's personnel shortages. Upon analysis, we determined that BOP's staffing challenges stem from a retention problem rather than a recruiting problem. We continue to believe that increasing retention incentives would be the most efficacious solution under the circumstances.

In considering any request for DHA, OPM must be mindful of the impact this hiring authority has on job-seeking veterans. DHA suspends veterans' preference, a statutory entitlement that gives certain veterans (and certain family members of veterans) a hiring preference over other job seekers. Because of this, OPM must exercise the utmost administrative probity to ensure a request truly meets the standards needed for approval.

Nonetheless, we continue to engage with BOP to reassess their staffing challenges and recruitment capacity. Most recently, OPM staff and Kim Holden, Deputy Associate Director Talent Acquisition and Workforce Shaping, met with DOJ-BOP staff on January 29, 2020, to discuss their request; OPM sought to better understand the hiring challenges they face and

explore the full range of possible solutions OPM may be able to provide beyond DHA (such as potential recruitment and retention incentives).

OPM looks forward to continuing to work with our DOJ colleagues to help them resolve their staffing shortfall. OPM recommends contacting DOJ Chief Human Capital Officer (CHCO), Monty Wilkinson, for additional information.

I appreciate the opportunity to respond to your interest in this matter. If you have any further questions, please feel free to contact Mr. Jonathan J. Blyth, Director, Congressional and Legislative and Intergovernmental Affairs at (202) 606-1300.

Sincerely,



Michael J. Rigas  
Acting Director

cc:

The Honorable James M. Inhofe  
United States Senate

The Honorable Robert Menendez  
United States Senate

The Honorable Mike Crapo  
United States Senate

The Honorable Sheldon Whitehouse  
United States Senate

The Honorable Roy Blunt  
United States Senate

The Honorable Mark Warner  
United States Senate

The Honorable James E. Risch  
United States Senate

The Honorable Edward J. Markey  
United States Senate

The Honorable James Lankford  
United States Senate

The Honorable Chris Van Hollen  
United States Senate

The Honorable John Hoeven  
United States Senate

The Honorable Kamala D. Harris  
United States Senate

The Honorable Richard Burr  
United States Senate

The Honorable Debbie Stabenow  
United States Senate

The Honorable Jacky Rosen  
United States Senate

The Honorable Richard J. "Dick" Durbin  
United States Senate

The Honorable John Thune  
United States Senate  
The Honorable David A. Purdue

The Honorable Dianne Feinstein  
United States Senate  
The Honorable Doug Jones

United States Senate

The Honorable Todd Young  
United States Senate

The Honorable Robert P. Casey, Jr.  
United States Senate

The Honorable Robert F. Bennet  
United States Senate

The Honorable Charles E. Grassley  
United States Senate

The Honorable Ron Johnson  
United States Senate

The Honorable Tim Scott  
United States Senate

The Honorable Cindy Hyde-Smith  
United States Senate

The Honorable Kevin Cramer  
United States Senate

The Honorable Thom Tillis  
United States Senate

The Honorable Pat Roberts  
United States Senate

The Honorable Mike Braun  
United States Senate

The Honorable Corey Gardner  
United States Senate

The Honorable Pat Toomey  
United States Senate

United States Senate

The Honorable Jeanne Shaheen  
United States Senate

The Honorable Amy Klobuchar  
United States Senate

The Honorable Sherrod Brown  
United States Senate

The Honorable Tim Kaine  
United States Senate

The Honorable Catherine Cortez Masto  
United States Senate

The Honorable Jerry Moran  
United States Senate

The Honorable Gary C. Peters  
United States Senate

The Honorable Tammy Duckworth  
United States Senate

The Honorable Tina Smith  
United States Senate

The Honorable Shelley Moore Capito  
United States Senate

The Honorable Benjamin L. Cardin  
United States Senate

The Honorable Tammy Baldwin  
United States Senate

The Honorable Richard Blumenthal  
United States Senate