



## Civil Service Strong Comment Guide

### U.S. Office of Personnel Management’s Notice – Confidential Government Information Nondisclosure Agreement

Comment Deadline: **June 26, 2026**

On May 27, 2026, the U.S. Office of Personnel Management (OPM) issued [a notice of a proposal](#) to create a standardized nondisclosure agreement (NDA) that agencies could ask both new hires and current federal employees to sign as a condition of employment. If adopted, this unprecedented proposal would chill the speech of millions of federal employees, affecting what they can say to Congress, Inspectors General, unions, and the public. OPM connects the NDA to OPM’s broader suitability and fitness regulatory changes, warning that penalties could follow both violations of the NDA and the failure to sign.

This guide is designed to help partners and members of the public comment on OPM’s notice. The notice also links to a [proposed NDA](#) that raises additional concerns. Interested persons and organizations may submit a comment. A step-by-step guide to commenting and additional resources appear below.<sup>1</sup>

#### **Overview of the Notice**

OPM’s notice, titled “[Confidential Government Information Nondisclosure Agreement](#),” describes NDAs as a way to document employees’ acknowledgment of existing duties to protect non-public, confidential, or proprietary information. The notice defines “Confidential Government Information” broadly to include:

[A]ll non-public, 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.

OPM says agencies could use the “optional” form for new employees during onboarding and for current employees, and that the form would become part of the employee’s Electronic Official

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<sup>1</sup> This guide is intended to help potential commenters understand the notice and identify areas where comments would be useful. It is not intended to be legal advice or a substitute for legal advice for a specific organization or about a particular set of facts.

Personnel Folder. OPM's notice includes a [proposed NDA](#) that claims to be voluntary but warns that failure to sign may result in removal from federal service and potential debarment (barring an individual from federal employment or contractor status for a period of time).

An NDA for ordinary civil servants would be a major and unprecedented action. Federal employees already operate under ethics rules, privacy laws, classification rules, records laws, agency policies, disciplinary procedures, security-clearance rules, and whistleblower statutes. OPM has not identified a concrete gap that requires a broad new NDA layered on top of those existing protections.

The notice and proposed NDA should be read together with two related and legally flawed OPM rulemakings regarding suitability and fitness, the government's assessment of an applicant or employee's character and conduct for employment. First, OPM has [proposed a Suitability and Fitness rule](#), now in its final stages before finalization, that would expand suitability factors, allow OPM to make suitability decisions based on post-employment conduct, and treat noncompliance with nondisclosure obligations as a suitability issue. In that rulemaking, OPM estimates that roughly 50 percent of removals normally handled under adverse-action procedures of the Civil Service Reform Act could instead be handled as suitability actions. Second, OPM has [proposed a Suitability Action Appeals rule](#) that would move suitability action appeals from the Merit Systems Protection Board, with its more fulsome processes and procedures, to OPM. Taken together with the proposed NDA, those proposals could allow alleged NDA violations, alleged leaks, or refusal to sign or certify compliance to trigger removal and debarment through a process with fewer independent protections.

### **What the Proposed NDA Would Do**

- Create a standardized NDA for current employees and new hires;
- Define "Confidential Government Information" broadly, as described above;
- State that employees may use covered information only for official duties and may not disclose it except as authorized by law;
- Include a certification that the employee understands and agrees to comply with nondisclosure requirements associated with federal service;
- Provide that signing is voluntary, but warns that failure to sign may result in removal or debarment;
- Allow agencies to include the NDA requirement in vacancy announcements and onboarding materials for new employees;
- Place the signed form, or an agency notation that the employee refused to sign, in the employee's Electronic Official Personnel Folder, where it could follow the employee across federal service;
- Create a continuing obligation that lasts five years after the employee leaves federal service;

- State that the more restrictive or stringent nondisclosure obligation controls if the proposed NDA conflicts with another nondisclosure agreement or obligation;
- Allow agencies to pursue disciplinary or suitability action, removal, debarment, civil and criminal penalties, injunctive relief, specific performance, and other remedies for alleged violations; and
- Warn employees that intentionally making a false certification may expose them to prosecution under 18 U.S.C. § 1001.

### **Points to Consider Raising in Comment Letters**

#### **1. The NDA is unnecessary, overbroad, and unprecedented.**

OPM points to a handful of leaks to justify a governmentwide NDA for the federal workforce. But it does not identify a real gap in existing law. Federal employees are already subject to the [Standards of Ethical Conduct](#), the Privacy Act, Federal Records Act obligations, agency-specific information-security policies, disciplinary rules, and criminal statutes where applicable. If an employee unlawfully discloses protected information, agencies already have tools to respond.

Comments could argue that OPM has not justified imposing a new governmentwide NDA on ordinary civil servants. The federal workforce is not a private-sector workforce. Career federal employees serve the public, swear an oath to the Constitution, and often have statutory duties to report wrongdoing, provide information to Congress, cooperate with Inspectors General, participate in grievance and labor processes, and follow scientific and evidentiary standards. A governmentwide NDA risks changing the culture of public service from accountability towards secrecy.

The public would also be harmed by a broad governmentwide NDA. Federal employees are often the people best positioned to identify waste, misconduct, threats to health and safety, manipulation of data, or failures in public services. If employees fear that lawful communications could later be treated as NDA violations, their communication of non-secret and non-confidential information will be chilled, harming all those who rely on it, including Congress, Inspectors General, unions, good government groups, whistleblower and watchdog groups, and the American people.

#### **2. The definition of “Confidential Government Information” is overbroad and vague.**

The proposed definition of Confidential Government Information is too broad and unclear, applying to virtually all “non-public” information. It does not give employees fair notice of what they can and cannot disclose, and risks treating all internal government information as presumptively secret.

Comments could ask OPM to narrow the definition to information that is specifically protected from disclosure by statute, regulation, lawful privilege, classification rule, court order, or another clearly identified legal authority. “Non-public” does not mean “secret,” “confidential,” or

“lawfully prohibited from disclosure.” Many materials that are not yet public may still be lawfully shared through proper channels, subject to the Freedom of Information Act (FOIA), disclosed to Congress, disclosed to the Office of Special Counsel (OSC) or an Inspector General, shared with a union representative, or discussed by an employee speaking as a private citizen on matters of public concern (see No. 3, below). OPM should also provide examples of information that is not covered and may be disclosed.

### **3. The NDA could chill First Amendment-protected and public-interest speech.**

Federal employees do not lose all First Amendment rights when they enter public service. A broad NDA covering vague categories of unclassified information could chill employees from speaking about matters of public concern, sharing their expertise, correcting misinformation, or participating in public debate where the law allows them to do so.

Comments could address the First Amendment implications of the proposed NDA and ask OPM to draw clear lines to avoid equating ordinary non-public information with legally protected secrets.

Comments could also address the press implications. The NDA appears designed, at least in part, to deter employees from communicating with reporters. The public has an interest in learning about government misconduct, waste, politicization, threats to public health and safety, suppression of evidence, and abuses of authority. Press reporting is often how those issues come to light.

### **4. The proposed NDA is especially harmful in an anti-science and anti-evidence administration.**

The NDA is especially concerning in an administration that has discounted scientific expertise, undermined evidence-based policymaking, and attacked career experts. Scientists, economists, statisticians, medical experts, engineers, environmental specialists, and other technical employees often need to raise concerns when political officials suppress evidence, distort data, ignore scientific standards, or mislead the public.

A broad NDA could chill disclosures the public needs, including warnings about threats to public health and safety, suppression of scientific findings, manipulation of data, misuse of grantmaking or procurement processes, politicization of technical judgments, or departures from evidence-based standards. Comments could explain that “Confidential Government Information” must not become a label used to bury science, hide inconvenient evidence, or prevent experts from warning Congress, Inspectors General, OSC, the Government Accountability Office, unions, courts, watchdog groups, employee advocates and counsel, or the public through lawful channels.

### **5. The NDA threatens unions, bargaining-unit employees, and collective bargaining.**

The NDA could have serious consequences for unions, bargaining-unit employees, and collective bargaining. Federal-sector labor law protects most employees' rights to form, join, and assist labor organizations and to act through unions in bargaining, grievances, arbitrations, unfair labor practice proceedings, workplace investigations, and representational meetings. Employees often must share non-public workplace information with union representatives so the union can represent employees effectively.

Comments could ask OPM to clarify that the NDA does not restrict communications with union representatives, does not prevent union representatives from carrying out statutory representational duties, does not supersede collective bargaining agreements, and does not allow agencies to bypass bargaining obligations before implementing the proposed NDA. Agencies should not be allowed to use the NDA to discourage employees from seeking union help, to block unions from obtaining information, to chill bargaining over workplace changes, or to discipline union representatives for protected representational activity.

#### **6. The relationship to OPM's suitability and suitability-appeal proposals is critical**

OPM says the NDA does not create new substantive restrictions. But the notice and proposed NDA connect to the administration's suitability changes, and the proposed Suitability and Fitness rule would make noncompliance with nondisclosure obligations relevant to suitability actions. That connection changes the practical stakes of the NDA, making it a removal and debarment tool.

Comments could explain that this package threatens to bypass civil service protections, negotiated grievance processes, and ordinary adverse-action procedures.

The NDA could also create a certification trap when combined with OPM's proposed suitability and fitness rules and the proposed NDA's false-certification warning. If employees refuse to certify compliance with an NDA, OPM's related regulatory proposals could treat that refusal as grounds for a suitability action. If employees do certify compliance to avoid being fired, the government could later argue that the certification was false if the employee previously shared any non-public information, even where the employee believed the disclosure was lawful or protected. Commenters can argue that OPM is attempting to create a system that chills lawful conduct and threatens employees with severe employment consequences for navigating an unclear NDA regime.

#### **7. OPM must clearly explain what happens if employees refuse to sign.**

The proposed NDA is internally confusing. It states that the employee consents to the agreement "in consideration of being granted access" to covered information and warns that failure to sign may result in removal from federal service and potential debarment. The proposed NDA's Privacy Act statement, however, says signing is voluntary. Those statements cannot all be true in any meaningful sense. If signing is voluntary, employees should not face discipline, removal, or any other adverse consequence for refusing. If OPM or agencies intend signing to be mandatory,

then OPM should say so clearly and explain the statutory basis, procedural protections, bargaining obligations, and other consequences.

Comments could argue that existing employees should not be forced to sign a new NDA as a condition of keeping their jobs, especially where the proposed NDA is vague and linked to separate suitability regulatory proposals that could enable summary removal or debarment.

#### **8. The notice appears inconsistent with the required whistleblower-rights language.**

A critical technical issue must be remedied. Under 5 U.S.C. § 2302(b)(13)(A), it is a [prohibited personnel practice](#) to implement or enforce a nondisclosure policy, form, or agreement that does not contain the required statement preserving employee rights and obligations concerning classified information, communications with Congress, whistleblowing, and disclosures to Inspectors General or OSC. The proposed NDA appears to omit parts of the required statement of rights. OPM must not finalize any form that omits the mandatory rights-preservation language or makes those protections appear narrower than Congress required.

#### **9. OPM specifically requests comments on certain topics.**

OPM has requested comments on all aspects of the draft NDA and specifically asks for input on:

- What scope of information should be covered, whether the NDA should cover only unclassified information, how “confidential” and “confidentiality” should be understood, and whether agency customization is necessary;
- Whether the proposed NDA clearly communicates what information is subject to nondisclosure requirements;
- Whether OPM should cite other statutes in Appendix A of the proposed NDA, describing the nondisclosure requirements applicable to federal workers;
- Suggestions on layout or formatting of the proposed NDA;
- Whether the Privacy Act statement of the proposed NDA gives sufficient notice of authorities, principal purposes, routine uses, and effects;
- Whether the system of records notice gives sufficient notice that records related to signing or failure to sign the NDA would be maintained;
- What actions, if any, agencies should consider if existing employees choose not to sign;
- What actions, if any, agencies should consider if new employees choose not to sign;
- Whether the proposed NDA clearly explains potential consequences of refusal to sign and whether signing is voluntary or mandatory; and
- What else OPM should consider before finalizing the proposed NDA.

#### **How to Submit a Comment**

- Comments are due **June 26, 2026**.
- Submit comments through the “[Submit a Public Comment](#)” button on the Federal Register notice or through the notice-specific portal at [regulations.gov](#).

- Identify the notice as “Confidential Government Information Nondisclosure Agreement, Docket ID OPM-2026-0100.”
- Comments can be submitted as text in the online form or by uploading a document. Personal information included in a comment may be posted publicly.
- For questions, OPM lists Joe Knouff, Suitability Director, at (202) 599-0090 or SuitEA@opm.gov, with “Attn: NDA Information” in the subject line.

### **Additional Resources**

- Protect Democracy, [What Makes an Effective Public Comment on a Federal Regulation.](#)
- Civil Service Strong, [Resources for Civil Servants.](#)
- Democracy Forward, [Resources.](#)
- Democracy 2025, [Response Center.](#)