

116TH CONGRESS
2D SESSION

S. 3896

To amend title 5, United States Code, to require the Director of the Office of Personnel Management to establish and maintain a public directory of the individuals occupying Government policy and supporting positions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 4, 2020

Mr. CARPER introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To amend title 5, United States Code, to require the Director of the Office of Personnel Management to establish and maintain a public directory of the individuals occupying Government policy and supporting positions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; PURPOSES.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Periodically Listing Updates to Management Act of
6 2020” or the “PLUM Act of 2020”.

7 (b) PURPOSES.—The purposes of this Act are to—

1 (1) modernize the practice of publishing the
 2 “Plum Book,” which has occurred nearly every 4
 3 years since 1952, and contains data on more than
 4 9,000 Federal civil service leadership and support
 5 positions in the legislative and executive branches of
 6 the Government that may be subject to noncompeti-
 7 tive appointment;

8 (2) enhance transparency by reporting who is
 9 serving in the Government and making policy deci-
 10 sions; and

11 (3) improve the frequency, accuracy, and acces-
 12 sibility of data on the individuals filling Government
 13 policy and supporting positions.

14 **SEC. 2. ESTABLISHMENT OF PUBLIC WEBSITE ON GOVERN-**
 15 **MENT POLICY AND SUPPORTING POSITIONS.**

16 (a) ESTABLISHMENT.—

17 (1) IN GENERAL.—Subchapter I of chapter 33
 18 of title 5, United States Code, is amended by adding
 19 at the end the following:

20 **“§ 3330f. Government policy and supporting position**
 21 **data**

22 **“(a) DEFINITIONS.—In this section:**

23 **“(1) AGENCY.—The term ‘agency’ means—**

1 “(A) any Executive agency, including the
2 United States Postal Service and the Postal
3 Regulatory Commission;

4 “(B) the Architect of the Capitol, the Gov-
5 ernment Accountability Office, the Government
6 Publishing Office, and the Library of Congress;
7 and

8 “(C) the Executive Office of the President
9 and any component within that Office (includ-
10 ing any successor component), including—

11 “(i) the Council of Economic Advi-
12 sors;

13 “(ii) the Council on Environmental
14 Quality;

15 “(iii) the National Security Council;

16 “(iv) the Office of the Vice President;

17 “(v) the Office of Policy Development;

18 “(vi) the Office of Administration;

19 “(vii) the Office of Management and
20 Budget;

21 “(viii) the Office of the United States
22 Trade Representative;

23 “(ix) the Office of Science and Tech-
24 nology Policy;

1 “(x) the Office of National Drug Con-
2 trol Policy; and

3 “(xi) the White House Office.

4 “(2) APPOINTEE.—The term ‘appointee’—

5 “(A) means an individual serving in a pol-
6 icy and supporting position; and

7 “(B) includes an individual serving in a
8 policy and supporting position temporarily in an
9 acting capacity in accordance with—

10 “(i) sections 3345 through 3349d
11 (commonly referred to as the ‘Federal Va-
12 cancies Reform Act of 1998’);

13 “(ii) any other statutory provision de-
14 scribed in section 3347(a)(1); or

15 “(iii) a Presidential appointment de-
16 scribed in section 3347(a)(2).

17 “(3) COVERED WEBSITE.—The term ‘covered
18 website’ means the website established and main-
19 tained by the Director under subsection (b).

20 “(4) DIRECTOR.—The term ‘Director’ means
21 the Director of the Office of Personnel Management.

22 “(5) POLICY AND SUPPORTING POSITION.—The
23 term ‘policy and supporting position’ means—

1 “(A) a position that requires appointment
2 by the President, by and with the advice and
3 consent of the Senate;

4 “(B) a position that requires or permits
5 appointment by the President or Vice Presi-
6 dent, without the advice and consent of the
7 Senate;

8 “(C) a position occupied by a limited term
9 appointee, limited emergency appointee, or non-
10 career appointee in the Senior Executive Serv-
11 ice, as defined under paragraphs (5), (6), and
12 (7), respectively, of section 3132(a);

13 “(D) a position of a confidential or policy-
14 determining character under schedule C of sub-
15 part C of part 213 of title 5, Code of Federal
16 Regulations, or any successor regulation;

17 “(E) a position in the Senior Foreign Serv-
18 ice;

19 “(F) any career position at an agency that,
20 but for this section and section 2(b)(4) of the
21 PLUM Act of 2020, would be included in the
22 publication entitled ‘United States Government
23 Policy and Supporting Positions’ (commonly re-
24 ferred to as the ‘Plum Book’); and

1 “(G) any other position classified at or
2 above level GS–14 of the General Schedule (or
3 equivalent) that is excepted from the competi-
4 tive service by law because of the confidential or
5 policy-determining nature of the position duties.

6 “(b) ESTABLISHMENT OF WEBSITE.—The Director
7 shall establish and maintain a public website containing
8 the following information:

9 “(1) Each policy and supporting position in the
10 Federal Government, including any such position
11 that is vacant.

12 “(2) Each individual who—

13 “(A) is serving in a position described in
14 paragraph (1); or

15 “(B) previously served in a position de-
16 scribed in paragraph (1) under the President
17 then in office.

18 “(c) CONTENTS.—With respect to any policy and
19 supporting position listed on the covered website, the Di-
20 rector shall include—

21 “(1) the agency and agency component (includ-
22 ing the agency and bureau code used by the Office
23 of Management and Budget) in which the position
24 is located;

25 “(2) the name of the position;

1 “(3) the name of the individual occupying the
2 position (if any);

3 “(4) the geographic location of the position, in-
4 cluding the city, State or province, and country;

5 “(5) the pay system for the position;

6 “(6) the level, grade, or rate of pay;

7 “(7) the term or duration of the appointment
8 (if any);

9 “(8) the expiration date, in the case of a time-
10 limited appointment;

11 “(9) a unique identifier for each appointee to
12 enable tracking the appointee across positions; and

13 “(10) whether the position is vacant.

14 “(d) **FORMAT.**—The Director shall make the data on
15 the covered website available to the public at no cost over
16 the internet in a searchable, sortable, downloadable, and
17 machine-readable format so that the data qualifies as an
18 open Government data asset, as defined in section 3502
19 of title 44.

20 “(e) **AUTHORITY OF DIRECTOR.**—

21 “(1) **INFORMATION REQUIRED.**—Each agency
22 shall provide to the Director any information that
23 the Director determines necessary to establish and
24 maintain the covered website, including the informa-
25 tion uploaded under paragraph (4).

1 “(2) REQUIREMENTS FOR AGENCIES.—Not
2 later than 1 year after the date of enactment of the
3 PLUM Act of 2020, the Director shall issue instruc-
4 tions to agencies with specific requirements for the
5 provision or uploading of information required under
6 paragraph (1), including—

7 “(A) specific data standards that an agen-
8 cy shall follow to ensure that the information is
9 complete, accurate, and reliable;

10 “(B) data quality assurance methods; and

11 “(C) the timeframe during which an agen-
12 cy shall provide or upload the information, in-
13 cluding the timeframe described under para-
14 graph (4).

15 “(3) PUBLIC ACCOUNTABILITY.—The Director
16 shall identify on the covered website any agency that
17 has failed to provide—

18 “(A) the information required by the Di-
19 rector;

20 “(B) complete, accurate, and reliable infor-
21 mation; or

22 “(C) the information during the timeframe
23 specified by the Director.

24 “(4) MONTHLY UPDATES.—

1 “(A) IN GENERAL.—Not later than 90
2 days after the date on which the covered
3 website is established, and not less than once
4 during each 30-day period thereafter, the head
5 of each agency shall upload to the covered
6 website updated information (if any) on—

7 “(i) the policy and supporting posi-
8 tions in the agency;

9 “(ii) the appointees occupying those
10 positions in the agency; and

11 “(iii) the former appointees who
12 served in policy and supporting positions in
13 the agency under the President then in of-
14 fice.

15 “(B) SUPPLEMENT NOT SUPPLANT.—In-
16 formation provided under subparagraph (A)
17 shall supplement, not supplant, data previously
18 provided under that subparagraph.

19 “(5) OPM HELP DESK.—The Director shall es-
20 tablish a central help desk, to be operated by not
21 more than 1 full-time employee, to assist any agency
22 with implementing this section.

23 “(6) COORDINATION.—

24 “(A) 18F OFFICE.—The Director shall
25 consult with the 18F office (or any successor

1 office) within the General Services Administra-
2 tion for purposes of the development, establish-
3 ment, operation, and support of the covered
4 website.

5 “(B) DESIGNATION OF AGENCIES.—The
6 Director—

7 “(i) may designate 1 or more agencies
8 to participate in the development, estab-
9 lishment, operation, and support of the
10 covered website; and

11 “(ii) with respect to any such designa-
12 tion, may specify the scope of the respon-
13 sibilities of the agency so designated.

14 “(f) RESPONSIBILITY OF AGENCIES.—

15 “(1) PROVISION OF INFORMATION.—Each agen-
16 cy shall comply with the instructions and guidance
17 issued by the Director to carry out this section, and,
18 upon request of the Director, shall provide appro-
19 priate assistance to the Director to ensure the suc-
20 cessful operation of the covered website in the man-
21 ner and within the timeframe specified by the Direc-
22 tor under subsection (e)(2).

23 “(2) ENSURING COMPLETENESS, ACCURACY,
24 AND RELIABILITY.—The head of an agency shall in-

1 include with any submission of information described
2 in paragraph (1)—

3 “(A) an explanation of how the agency en-
4 sured the information is complete, accurate,
5 and reliable; and

6 “(B) a certification that the information is
7 complete, accurate, and reliable.

8 “(g) INFORMATION VERIFICATION.—

9 “(1) SEMIANNUAL CONFIRMATION.—

10 “(A) IN GENERAL.—Not less frequently
11 than semiannually, the Director, in coordination
12 with the White House Office of Presidential
13 Personnel, shall confirm that the information
14 on the covered website is complete, accurate, re-
15 liable, and up-to-date.

16 “(B) CERTIFICATION.—On the date on
17 which the Director makes a confirmation under
18 subparagraph (A), the Director shall publish on
19 the covered website a certification that the con-
20 firmation has been made.

21 “(2) AUTHORITY OF DIRECTOR.—In carrying
22 out paragraph (1), the Director may—

23 “(A) request additional information from
24 an agency; and

1 “(B) use any additional information pro-
2 vided to the Director or the White House Office
3 of Presidential Personnel for the purposes of
4 verification.

5 “(3) PUBLIC COMMENT.—The Director shall es-
6 tablish a process under which members of the public
7 may provide feedback regarding the accuracy of the
8 information on the covered website.

9 “(h) DATA ARCHIVING.—

10 “(1) IN GENERAL.—As soon as practicable
11 after a transitional inauguration day (as defined in
12 section 3349a), the Director, in consultation with
13 the Archivist of the United States, shall archive the
14 data that was compiled on the covered website for
15 the preceding presidential administration.

16 “(2) PUBLIC AVAILABILITY.—The Director
17 shall make the data described in paragraph (1) pub-
18 licly available over the internet—

19 “(A) on, or through a link on, the covered
20 website;

21 “(B) at no cost; and

22 “(C) in a searchable, sortable,
23 downloadable, and machine-readable format.”.

24 “(2) CLERICAL AMENDMENT.—The table of sec-
25 tions for subchapter I of chapter 33 of title 5,

1 United States Code, is amended by adding at the
2 end the following:

“3330f. Government policy and supporting position data.”.

3 (3) DEADLINE.—Not later than 1 year after
4 the date of enactment of this Act, the Director of
5 the Office of Personnel Management shall establish
6 the website required under section 3330f(b) of title
7 5, United States Code, as added by subsection
8 (a)(1).

9 (b) OTHER MATTERS.—

10 (1) DEFINITIONS.—In this subsection, the
11 terms “agency”, “covered website”, and “policy and
12 supporting position” have the meanings given those
13 terms in section 3330f of title 5, United States
14 Code, as added by subsection (a)(1).

15 (2) AUTHORIZATION OF APPROPRIATIONS.—
16 There is authorized to be appropriated \$10,000,000,
17 to remain available until expended, for developing
18 the covered website under section 3330f(b) of title 5,
19 United States Code, as added by subsection (a)(1).

20 (3) GAO REVIEW AND REPORT.—

21 (A) IN GENERAL.—Not later than 1 year
22 after the date on which the covered website is
23 established, the Comptroller General of the
24 United States shall conduct a review of, and
25 issue a briefing or report on, the implementa-

1 tion of this Act and the amendments made by
2 this Act.

3 (B) CONTENTS.—The review conducted
4 under subparagraph (A) shall include—

5 (i) the quality of data collected and
6 whether the data is complete, accurate,
7 timely, and reliable;

8 (ii) any challenges experienced by
9 agencies in implementing this Act and the
10 amendments made by this Act; and

11 (iii) any suggestions or modifications
12 to enhance compliance with this Act and
13 the amendments made by this Act, includ-
14 ing best practices for agencies to follow.

15 (4) SUNSET OF PLUM BOOK.—Beginning on
16 January 1, 2024—

17 (A) the covered website shall serve as the
18 public directory for policy and supporting posi-
19 tions in the Government; and

20 (B) the publication entitled “United States
21 Government Policy and Supporting Positions”,
22 commonly referred to as the “Plum Book”,
23 shall no longer be issued or published.

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