Draft Nondisclosures/Federal Agency Employees: Public Employees for Environmental Responsibility Submits Comments to United States Office of Personnel Management

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The Public Employees for Environmental Responsibility ("PEER") submitted June 16, 2026 comments on the United States Office of Personnel Management ("OPM") Notice with Request to Comment ("Notice") on what the federal agency describes as:

… a draft nondisclosure agreement (NDA) for use by federal agencies for both new and existing employees.

See OPM – 206 - 0100/Document.

OPM states that the form is intended to document federal employees' acknowledgment of, and agreement to comply with:

… current legal obligations to safeguard non-public, confidential, or proprietary information, created or obtained through their official duties, while expressly preserving the right to make disclosures authorized by law.

The NDA if finalized would potentially be utilized by a number of federal agencies addressing environmental and natural resources issues such as:

- United States Environmental Protection Agency.
- United States Army Corps of Engineers.
- United States Fish and Wildlife Service.

In articulating the rationale for an NDA, OPM states in part:

- Federal employees do not have discretion to disclose confidential government information outside of narrow circumstances prescribed by relevant authorities and implemented by procedures which differ by agency
- Unauthorized disclosure of confidential government information disrupts agency operations and erode public trust
- In recent months, unauthorized disclosures have included internal government materials not intended for public release, such as pre-decisional documents and interagency comments exchanged during internal coordination processes

- There have been several recent instances in which internal agency communications related to rule making and policy development were disclosed without authorization
- Disclosures risk chilling candid interagency feedback, disrupting orderly decision-making and weakening trust within and among federal agencies

OPM states that it has developed the proposed NDA for use by federal agencies that elect to document employees' acknowledgment of, an agreement to comply with existing non-disclosure obligations. It argues that the NDA does not create new substantive restrictions and employee speech or disclosure but is instead decision to provide agencies with a standardized mechanism for employees to acknowledge and agree to comply with obligations that already exist under law and regulation. Further, OPM states that it preserves rights to make disclosure authorized by law which include protected whistleblower disclosures.

PEER's comments list ten concerns with the proposal:

1. The NDA Language is Extraordinarily Broad
2. Whistleblower Protections Are Inadequate
3. The Proposal Conflicts with Existing Law and Policy
4. The Government Framing is Incorrect and Misleading
5. The Enforcement Mechanisms Sharpen Our Concern
6. It Silences Former Government Employees
7. It Elevates Politics and Silences Expertise
8. It Can Be Weaponized Against Federal Employees
9. It Purports to Treat Federal Employees Like Private Sector Employees
10. It Cannot be View in Isolation

The organization also states in part that its concern is not with the federal government's need for confidentiality. It acknowledges the government has a legitimate interest in protecting information that should not be publicly disclosed, and federal employees already face a range of criminal and other sanctions for releasing to the public specific types of information without prior approval.

Instead, PEER argues that the formulation is:

… so hopelessly vague that it would leave current and former federal workers guessing and inferring about what they can and cannot say – with the threat of being fired, and with criminal prosecution or civil sanctions hovering over them if they say something about their work that the government in power perceives as threating to its interest.

Further, PEER states:

- The threat will make current and former federal workers reluctant to respond to Congressional inquiries, and Inspector General investigations, media questions or requests from outside groups
- Such groups have historically served as checks on executive branch power
- The voice that is most likely to be silenced by the proposal are the ones that contradict an official political narrative

A copy of the OPM Notice and PEER comments can be found here.