



Trump's 'Fork in the Road' resignation offer for federal workers is in judge's hands

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Protesters rally outside the headquarters of the U.S. Office of Personnel Management in Washington, D.C., on Feb. 5.

Alex Wong/Getty Images

The resignation offer to federal employees known as a "Fork in the Road" is now in a judge's hands.

After a hearing Monday, U.S. District Judge George O'Toole once again pushed back the deadline for the Trump administration's deferred resignation program, "until further order of the Court."

The hearing, in a federal courtroom in Boston, came nearly two weeks after the [U.S. Office of Personnel Management \(OPM\) sent an email](#) to more than 2 million civilian employees of the federal government with the subject line "Fork in the Road." Originally, it gave federal employees just nine days to decide their fates.



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The OPM email — similar to one Trump adviser [Elon Musk sent to Twitter employees](#) after he bought the company in 2022 — gave government workers a choice: They could stay or leave, but if they stayed, their jobs would not be guaranteed. Moreover, those who stayed would face "significant" reforms, including layoffs, a return to office and an expectation that they be "loyal."

If they leave, OPM said, the expectation was that they could stay on the government's payroll until the end of September.

Last Thursday, O'Toole ordered the government to extend the Feb. 6 deadline for employees to accept the offer so that he could hear arguments in the case. On Monday, the court did not say when O'Toole would issue a decision on whether to allow the deferred resignation program to continue.

Late Monday, OPM sent out an email to federal employees informing them that the program remains open to resignations.

At the White House, President Trump said he was confident his administration would prevail.

"I got elected on making government better, more efficient and smaller, and that's what we're doing, and I think it was a very generous buyout actually," he said.

About 65,000 federal employees, roughly 3% of the federal workforce, had agreed to resign as of Friday, according to the Trump administration.

Unions sued, calling the resignation offer unlawful, arbitrary and capricious

The legal group Democracy Forward [filed a lawsuit](#) on Feb. 4 on behalf of labor unions representing more than 800,000 civil servants. It alleges that the Trump administration's resignation offer is unlawful, as well as "[arbitrary and capricious](#) in numerous respects."



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The unions argue that OPM exceeded its authority in promising pay and benefits through the end of September, given funding for most federal agencies expires on March 14. A law known as the [Antideficiency Act](#) prohibits federal agencies from obligating any spending that has yet to be approved by Congress.

The unions further contend that the offer fails to consider possible adverse consequences to the government's ability to function; sets an arbitrarily short deadline; and is pretext for removing and replacing workers on an ideological basis, among other things.

In court Monday, the unions' attorney Elena Goldstein described the resignation offer as "explosive" and something OPM seemed to be making up as they went along.

Over the last two weeks, the government sent a barrage of emails to federal employees, including [those who were originally told they were excluded](#) from the deal, with [conflicting information about their rights and obligations](#) should they agree to resign.



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Trump administration adds fine print to 'Fork' resignation offer, deepening confusion

"This guidance continues to shift in a way that obscures the true nature of the Directive from Plaintiffs, federal employees, and the public," the unions' attorneys wrote in their complaint.

The government argues the "Fork" offer is lawful

Meanwhile, Department of Justice attorney Eric Hamilton called the offer a "humane offramp" for federal employees who don't want to deal with the uncertainty that lies ahead for the federal workforce, as Trump — guided by Musk's government efficiency team — executes a major overhaul.

Hamilton also argued a point raised in the government's brief filed last week, that

congressional approval for the deferred resignation program is unnecessary, "because employees would remain in duty status and entitled to their regular pay and benefits" until Sept. 30. The brief noted that no additional compensation had been offered.

Additionally, the government argued that the resignation offer is not a "final agency action" and therefore not subject to judicial review.

"It is a matter of pure internal governmental administration," the government's attorneys wrote in their brief.

They rejected the claim that the "Fork" offer is coercive, and appeared to be trying to shift legal responsibility away from OPM and toward employees who accept the offer.



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"That email announcing the voluntary resignation program does not determine any rights or obligations, and no legal consequences flow from the program itself. Rather, any legal consequences would flow from a federal employee's choice in accepting the voluntary resignation offer," the government's attorneys wrote. "The voluntary resignation program 'does not require anyone to do anything.'"

The government had argued that pausing the program further would inject more uncertainty for federal workers and disrupt a "critical priority" of the Trump administration — to overhaul the federal workforce.

Attorneys general warn of devastating impact on American public

Democratic attorneys general from 20 states and the District of Columbia [filed a brief](#) Sunday in support of the unions' lawsuit, asserting that the resignation offer "would have a devastating impact on states' ability to respond to natural disasters, support veterans, and deliver crucial services to millions of Americans."

"Without the work of thousands of federal employees, communities across the country will suffer," said New York Attorney General Letitia James in a statement.

On Monday, O'Toole ordered that brief, along with others filed, deleted from the

docket. He wrote, "While there may be no positive rule forbidding it, in my judgment a trial court generally should not receive nor consider volunteered submissions by non-parties except as may be specifically authorized by statute or other authority."

The federal government is the biggest employer in the U.S., with 80% of civilian employees working at military bases and in government offices outside the Washington, D.C., region.

WBUR's *Walter Wuthmann* contributed to this story from Boston.

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