AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

S. Hrg. 111–689

# THE NATIONAL SECURITY PERSONNEL SYSTEM AND PERFORMANCE MANAGEMENT IN THE FEDERAL GOVERNMENT

## HEARING

BEFORE THE

OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA SUBCOMMITTEE

OF THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

JUNE 9, 2010

Available via http://www.gpoaccess.gov/congress/index.html

Printed for the use of the Committee on Homeland Security and Governmental Affairs

U.S. GOVERNMENT PRINTING OFFICE

58–031 PDF WASHINGTON : 2010

For sale by the Superintendent of Documents, U.S. Government Printing Office, http://bookstore.gpo.gov. For more information, contact the GPO Customer Contact Center, U.S. Government Printing Office. Phone 202–512–1800, or 866–512–1800 (toll-free). E-mail, gpo@custhelp.com.

ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00001 Fmt 5011 Sfmt 5011 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

JOSEPH I. LIEBERMAN, Connecticut, *Chairman*

CARL LEVIN, Michigan
DANIEL K. AKAKA, Hawaii
THOMAS R. CARPER, Delaware
MARK L. PRYOR, Arkansas
MARY L. LANDRIEU, Louisiana
CLAIRE MCCASKILL, Missouri
JON TESTER, Montana
ROLAND W. BURRIS, Illinois
EDWARD E. KAUFMAN, Delaware

SUSAN M. COLLINS, Maine
TOM COBURN, Oklahoma
SCOTT P. BROWN, Massachusetts
JOHN MCCAIN, Arizona
GEORGE V. VOINOVICH, Ohio
JOHN ENSIGN, Nevada
LINDSEY GRAHAM, South Carolina

MICHAEL L. ALEXANDER, *Staff Director*
BRANDON L. MILHORN, *Minority Staff Director and Chief Counsel*
TRINA DRIESSNACK TYRER, *Chief Clerk*

OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA SUBCOMMITTEE

DANIEL K. AKAKA, Hawaii, *Chairman*

CARL LEVIN, Michigan
MARY L. LANDRIEU, Louisiana
ROLAND W. BURRIS, Illinois
EDWARD E. KAUFMAN, Delaware

GEORGE V. VOINOVICH, Ohio
SCOTT P. BROWN, Massachusetts
LINDSEY GRAHAM, South Carolina

LISA M. POWELL, *Staff Director*
BRYAN G. POLISUK, *Counsel*
JENNIFER A. HEMINGWAY, *Minority Staff Director*
SEAN M. STIFF, *Minority Professional Staff Member*
AARON H. WOOLF, *Chief Clerk*



ph44585 on D330-44585-7600 with DISTILLER
VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00002 Fmt 5904 Sfmt 5904 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

# CONTENTS


Opening statements: Page
Senator Akaka ..... 1
Senator Voinovich ..... 2

WITNESSES

WEDNESDAY, JUNE 9, 2010

John H. James, Jr., Director, National Security Personnel System Transition Office, U.S. Department of Defense ..... 4
Charles D. Grimes III, Deputy Associate Director for Employee Services, U.S. Office of Personnel Management ..... 6
Gregory J. Junemann, President, International Federation of Professional and Technical Engineers, AFL-CIO, CLC ..... 16
Patricia Niehaus, National President, Federal Managers Association ..... 18
Patricia Viers, President, Local 1148, American Federation of Government Employees, AFL-CIO ..... 20

ALPHABETICAL LIST OF WITNESSES

Grimes, Charles D. III:
Testimony ..... 6
Prepared statement ..... 44
James, John H. Jr.:
Testimony ..... 4
Prepared statement ..... 29
Junemann, Gregory J.:
Testimony ..... 16
Prepared statement ..... 47
Niehaus, Patricia:
Testimony ..... 18
Prepared statement ..... 57
Viers, Patricia:
Testimony ..... 20
Prepared statement by John Gage, President ..... 70

APPENDIX

Background ..... 76
Howard Risher, Ph.D., representative of HRSolutions, Wayne, PA, prepared statement ..... 80
Questions and responses for the Record:
Mr. James ..... 86




ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00003 Fmt 5904 Sfmt 5904 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

ph44585 on D330-44585-7600 with DISTILLER

# THE NATIONAL SECURITY PERSONNEL SYSTEM AND PERFORMANCE MANAGEMENT IN THE FEDERAL GOVERNMENT

**WEDNESDAY, JUNE 9, 2010**

U.S. SENATE,
SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA,
OF THE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS,
*Washington, DC.*

The Subcommittee met, pursuant to notice, at 2:30 p.m., in room SD–342, Dirksen Senate Office Building, Hon. Daniel K. Akaka, Chairman of the Subcommittee, presiding.

Present: Senators Akaka and Voinovich.

## OPENING STATEMENT OF SENATOR AKAKA

Senator AKAKA. This hearing will come to order.

Good afternoon. Welcome and aloha. I would like to thank you all for joining us here today for this hearing examining the repeal of the National Security Personnel System and Performance Management in the Federal Government.

The Fiscal Year 2010 National Defense Authorization Act (NDAA) repealed the National Security Personnel System (NSPS) at the Department of Defense (DOD), our Nation's largest Federal agency. Since its inception, NSPS was plagued by employee distrust and a lack of transparency. As one of three Senators to vote against NSPS in 2003, I was pleased that the system was repealed. Federal employees, especially those charged with defending our Nation, are entitled to a personnel system that is fair and transparent.

As a result of the appeal, approximately 226,000 DOD employees must be converted out of NSPS by January 1, 2012. Most of these employees will transition back to the General Schedule (GS) system. The NDAA also requires that no DOD employee suffer any loss of pay as a result of this transition process.

Although DOD has until 2012 to complete this transition, DOD estimates that the large majority of employees will be removed from NSPS by the end of 2010. As of today, more than 50,000 DOD employees have already transformed out of NSPS. DOD should be applauded for establishing a NSPS transition office and starting the transition quickly.



ph44585 on D330-44585-7600 with DISTILLER
VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00005 Fmt 6633 Sfmt 6633 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

However, I am concerned with certain issues related to the transition. For instance, DOD has reported that it plans to place a large number of employees who received large raises under NSPS on pay retention. As a result, these employees will receive half of their annual pay increase until the General Schedule catches up with their pay. I understand that there is significant concern about this issue, especially from employees approaching retirement, and I look forward to hearing from our witnesses on it.

In addition to repealing NSPS, the NDAA provided DOD, in coordination with the Office of Personnel Management (OPM), with authority to create a new performance management system for DOD employees. OPM has also indicated that it may seek to implement a new performance management system governmentwide. I am pleased that DOD is required to involve employees and labor organizations in the design and implementation of this system.

I am also pleased that the law requires that the new system be fair, credible and transparent, that both supervisors and employees be trained on the system, and that supervisors receive additional training on performance management and motivating employees, that employees receive formal and on-the-job training and mentoring to help their performance, and that other transparency and accountability safeguards be built into the system.

I believe that NSPS was ultimately unsuccessful because DOD did not adequately seek employee input or share information with stakeholders. The success of any large-scale agencywide change depends largely on acceptance and understanding by employees and supervisors. We must all keep this in mind as we consider significant performance management changes for both DOD and throughout the Federal Government.

I look forward to hearing from DOD on its plans to move forward as well as other witnesses' input on how performance management systems at DOD and governmentwide should be structured.

With that, I will ask my good friend, Senator Voinovich, for any opening remarks that he may have.

**OPENING STATEMENT OF SENATOR VOINOVICH**

Senator VOINOVICH. Thank you, Mr. Chairman, and I am really pleased that you are having this hearing today because the NSPS system was something that I worked on for 4 or 5 years. I will say this, that after looking into what the alternative is, it is much better than I originally anticipated.

That being said, NSPS was the most ambitious effort yet at improving the way the Federal Government manages and rewards its employees. Beginning in 2003, I spent much time and effort working, along with colleagues Senators Collins, Levin and John Warner, to get the system right.

I remember going over to the Department of Defense and saying, you are going too fast. Slow down. Take your time. Make sure the training is there because you cannot do this unless you have the proper training.

In many ways, this work required Congress to force the Department to make course corrections. For instance, in response to stakeholder concerns about the lack of consultation by DOD, Con-

ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00006 Fmt 6633 Sfmt 6633 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

gress established a Meet and Confer requirement to provide for stakeholder input.

Congress also worked to slow down implementation, to transform the System's rollout into an event-driven process rather than one that followed arbitrary timelines. A lengthier implementation period allowed the Department to incorporate lessons learned for new classes of DOD employees when their time came to join NSPS. As a matter of fact, Senator Akaka and I had a hearing out in his wonderful State of Hawaii with some folks to see how NSPS was being cascaded throughout the Country.

Unfortunately though, bipartisan good faith efforts in Congress were not matched by what I consider similar contributions from important stakeholder groups. For example, shortly after the Department unveiled the NSPS final rule, I asked a Federal labor union to provide me with a list of 10 improvements they would like to see made to NSPS. Topping the list I received in return was a proposal to allow bargaining over pay in NSPS. As my colleagues well know, pay has never been subject to bargaining among Executive Branch agencies.

When coupled with similar experiences like the disappointing participation of various groups during the Meet and Confer process, I could only conclude that some were never interested in seeing NSPS succeed. The interesting thing is that NSPS never did get cascaded to members of the unions. It was all non-union members that were involved in the System.

Now I do not mean to suggest that NSPS problems can be attributed solely to early and prolonged opposition from certain quarters. Very real and important implementation flaws existed during NSPS's short life including pay disparities correlated with race, gender and job assignment. It was imperfect.

But after only a few years of implementation, the solution to these flaws should not have been the wholesale repeal pursued by Congressional Democrats and the Obama Administration. Rather, increased resources should have been dedicated to training managers and supervisors in properly completing performance appraisals and in developing oversight mechanisms to discipline the use of pay pool funds.

I understand the Fiscal Year 2010 National Defense Authorization Act provides the Department with certain personnel flexibilities in an effort to retain some of the positive features of NSPS. Quite frankly, Mr. Chairman, as I mentioned, I was not aware of those.

Though I look forward to today's discussion about these authorities, I am not optimistic that this intended capture will occur because already we see past patterns being repeated. In early March, the Department of Defense NSPS Transition Office invited 81 stakeholders to a conference intended to be held in my hometown, Cleveland, Ohio in mid-April. That meeting was promptly canceled though after certain stakeholder groups objected to the "short notice" provided for this conference and because of other alleged concerns about the meeting's agenda. The forum has yet to be rescheduled.

If the Department of Defense cannot even assemble a discussion group on possible uses for these new personnel flexibilities, I hold

ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00007 Fmt 6633 Sfmt 6633 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

little hope that the Department will receive the level of constructive dialogue and cooperation necessary to craft a reasonable system for submission to Congress by the October deadline.

Mr. James, you have a difficult task ahead of you. I wish you luck.

There is one positive note on the performance management horizon though. I am hopeful that Director Berry, who unfortunately cannot join us today, will continue to work toward his goal of overhauling the way the Federal Government improves employee performance. I, for one, think Director Berry gets it. Remarks delivered by Director Berry last November at the Maxwell School of Syracuse University accurately capture the plight of an ambitious Federal employee under the present performance management system and, more importantly, what is at stake in this discussion.

According to the Director, and this is a quote—I will be finishing up, Mr. Chairman—"Too often you will run into an HR system and culture that favors red tape inertia over initiative. You will find a lot of extra effort may get you a little more reward, but not that much. So you will be disheartened. You will either settle for a slower pace or you will get restless and leave. If that happens, everyone loses."

So, Mr. Chairman, I am looking forward to this hearing today. Thank you very much for holding it.

Senator AKAKA. Thank you very much, Senator Voinovich.

I would like to now introduce our first panel, and again it is my pleasure to welcome you to this hearing: John James, Jr., Director of the NSPS Transition Office at the Department of Defense and Chuck Grimes, Deputy Associate Director of Employee Services at the Office of Personnel Management.

As you know it is the custom of this Subcommittee to swear in the witnesses, and I will ask you both to stand and raise your right hands.

Do you solemnly swear that this testimony you are about to give this Subcommittee is the truth, the whole truth and nothing but the truth, so help you, God?

Mr. JAMES. I do.

Mr. GRIMES. I do.

Senator AKAKA. Thank you very much. Let the record show that the witnesses answered in the affirmative.

I want you both to know that although your remarks are limited to 5 minutes, your full statements will be included in the record.

Mr. James, please proceed with your statement.

## TESTIMONY OF JOHN H. JAMES, JR.,[1] DIRECTOR, NATIONAL SECURITY PERSONNEL SYSTEM TRANSITION OFFICE, U.S. DEPARTMENT OF DEFENSE

Mr. JAMES. Thank you, Mr. Chairman.

Mr. Chairman, Senator Voinovich, thank you for the opportunity to speak to you today about implementing the repeal of the National Security Personnel System and acting on the personnel authorities provided to DOD in the National Defense Authorization Act of 2010.

[1] The prepared statement of Mr. James appears in the Appendix on page 29.

ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00008 Fmt 6633 Sfmt 6633 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

Transitioning employees from NSPS to the appropriate statutory non-NSPS pay and personnel system is a high priority for the Department. I will talk about that first.

When we began the transition process, there were approximately 226,000 employees converted by NSPS. Approximately 75 percent of our NSPS workforce will transition to the General Schedule (GS) system by September 30, 2010.

Currently, more than 53,000 employees have been transitioned from NSPS to the GS system. Of that number, approximately 71 percent received a pay increase with an average salary increase of close to $1,400 per year. Another 8 percent remained at the same rate of pay. The remaining 21 percent of transition employees were placed on pay retention, which I will discuss in a few moments.

The Department did not convert bargaining unit employees into NSPS. However, some employees under NSPS exercised their rights and organized into bargaining units represented by labor unions. As a result, 27 bargaining units were formed, covering 913 NSPS bargaining unit employees.

In some cases, unions, after receiving notice of pending transition, simply requested some information on transition issues and did not seek negotiations. In other cases, requests to bargain were received, and management is honoring its collective bargaining obligations. As of this date, half of the bargaining unit employees have transitioned from NSPS.

Reclassifying NSPS positions to the General Schedule is critical to a successful transition. NSPS is fundamentally different from the General Schedule system as each pay band is wide and encompasses a broad range of duties and responsibilities found in several grades of the General Schedule system. Under the governmentwide GS classification system, duties and responsibilities are tightly defined in 15 discrete grades. Each DOD component has put in place a process to ensure that position descriptions identify the major duties and responsibilities of positions, and are accurately classified.

With roughly 170,000 NSPS employees rejoining 320,000 General Schedule employees whose jobs were not under NSPS, we are mindful that governmentwide General Schedule pay and personnel system rules and standards must be applied equitably.

NDAA 2010 requires that employees suffer no loss of, or decrease in, pay due to termination of NSPS or their transition to the statutory pay and personnel system that last applied or that would have applied if NSPS were never put in place. To accomplish this, many employees are being placed on pay retention.

Pay retention is a valuable safeguard for NSPS transition and for many other situations like reductions in force due to base realignments and closures. In addition, the NDAA language gives added protection to transitioning NSPS employees whose salaries may be higher than what a GS employee can earn.

Because employees on pay retention are being paid at a higher rate than is applicable to the duties of the position they hold, the pay retention law and regulation are designed to normalize their salaries over time by aligning their pay with the grade of the duties performed. By law, the employee on pay retention receives 50 percent of the annual governmentwide pay increase. Each time a GS annual adjustment occurs, the employee's pay comes closer to

ph44585 on D330-44585-7600 with DISTILLER
VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00009 Fmt 6633 Sfmt 6633 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

being appropriate for the grade level of the work that he or she performs.

Pay retention allows the Department to be in conformance with the law and to protect the employee's pay.

We have set up a NSPS transition Website to publicize up-to-date information on the training and transition to the GS system and performance management basics. The Website is available to everyone including the general public.

In addition, DOD components all have robust communications campaigns in preparation for transition from NSPS to GS, including town hall meetings, leadership and workforce briefings, and video teleconferences. I have personally accepted invitations to speak on NSPS transition at several workforce functions around the Country over the past 3 months. Some organizations are providing individual counseling to employees with concerns, and all report that employees are being told about available training, and encouraged to ask questions of their supervisors and local human resource offices.

Fulfilling the NDAA's provisions for developing and implementing a new DOD-wide performance management system and hiring process requires full engagement amongst management, the workforce, unions, and others with vested interest like OPM. The Department is meeting with labor organizations to discuss a way forward on designing a new performance management system and hiring process. One significant result of these meetings is our work with the labor unions in designing a conference where management and labor attendees will come together and begin a series of open and structured discussions to gather different views regarding options for the new authorities.

While this may take a little longer, it is my intent that the design process is transparent and that employees and other interested parties participate in, and be kept informed about, the development and deployment of new programs. Training will be developed concurrently with the design of the new authorities and made available to all.

In closing, let me assure you that the Department is committed to an open and transparent process for both the NSPS transition and the development of the DOD-unique performance management and hiring authorities provided in NDAA 2010.

Thank you for your ongoing support of our DOD civilian workforce and providing me the opportunity to share with you our experiences as we implement the repeal of NSPS and undertake the design of the NDAA 2010 personnel authorities.

I welcome your questions. Thank you.

Senator AKAKA. Thank you very much, Mr. James, for your testimony. Mr. Grimes, please proceed.

**TESTIMONY OF CHARLES D. GRIMES III,[1] DEPUTY ASSOCIATE DIRECTOR FOR EMPLOYEE SERVICES, U.S. OFFICE OF PERSONNEL MANAGEMENT**

Mr. GRIMES. Chairman Akaka and Ranking Member Voinovich, on behalf of the Office of Personnel Management, thank you for the

[1] The prepared statement of Mr. Grimes appears in the Appendix on page 44.

ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00010 Fmt 6633 Sfmt 6633 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

opportunity to participate in this hearing to examine the transitioning of employees from the National Security Personnel System back to the General Schedule classification and pay system, as well as performance management in the Federal Government.

As you know, the National Defense Authorization Act for Fiscal Year 2010 repealed NSPS and required that employees covered by the system be moved back to their former personnel systems by January 1, 2012. For most employees, this means they will be returned to the General Schedule classification and pay system. This transition is proceeding on schedule. The Department of Defense has said it expects around 75 percent of NSPS employees to be back under the General Schedule by the end of the first year.

You asked me specifically to discuss pay retention and position classification after the transition. When employees are moved back to the General Schedule from NSPS, DOD will classify all positions in accordance with classification standards and guidance issued by OPM. The Department will apply the same criteria in classifying the positions of transitioning NSPS employees that agencies use when classifying any Federal job.

While OPM's classification standards are designed to provide consistency in the way work is classified across the government, individual contributions within a job may affect its classification over time. It is possible, for example, that some transitioning employees will return to GS positions that will be classified at a higher grade level than the positions they held before becoming covered by NSPS. These positions may now require more knowledge, more complex work or less supervision. These factors are routinely taken into account in classifying Federal jobs.

At the same time, we recognize that there are many employees who earn salaries under NSPS that substantially exceed what they would be receiving had they remained under the General Schedule. Under the law, when NSPS employees are placed in positions for which the maximum rate of pay is lower than their NSPS salary, they will continue to receive their NSPS salary as a retained pay rate.

However, when GS pay rates are adjusted each January, these employees will receive 50 percent of the pay increase, including locality pay. This 50 percent increase will continue until the maximum pay for the employees' grade meets or exceeds their retained pay rate. At that point, they will be placed in the highest step of their grade and will begin receiving 100 percent of the annual pay increase.

The entitlement to retained pay eases these employees' transition back to the General Schedule and ensures that they will not experience a precipitous drop in pay when they return to the General Schedule system. This is a significant benefit.

As of December 2009, about 5,100 GS employees were on retained pay rates. Their average salaries were about $6,600 over the maximum rate of the grade they would have otherwise been in.

Meanwhile, Mr. Chairman, as you noted in your invitation to this hearing, the NDAA also provided the Department of Defense with certain personnel flexibilities. In particular, you asked us to comment on the implementation of the authority for the Secretary, in coordination with the Director of OPM, to develop new perform-

ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00011 Fmt 6633 Sfmt 6633 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

ance appraisal and hiring systems for the Department. Although DOD has not yet approached OPM about a proposal for how this authority might be exercised, we have worked with DOD, among other agencies, in developing our governmentwide hiring reform initiative which was recently launched by the President. We at OPM are very grateful for DOD's participation in helping identify and implement needed changes in the hiring process.

Finally, Mr. Chairman, you asked us about our plans for changes to the Government's Performance Management System. Director Berry has been talking with various stakeholders and gathering their feedback on different approaches to governmentwide performance management reform. However, we have not yet formulated any specific plans in this regard, so it would be premature for me to discuss a particular proposal at this time.

Thank you again for the opportunity to discuss these matters with you. I would be happy to respond to any questions you may have.

Senator AKAKA. Thank you very much, Mr. Grimes.

I have questions for both of you on the panel. As you know, the NDAA requires DOD to coordinate with OPM in designing any new performance management system. I believe that OPM's human resource expertise will be helpful to DOD in establishing a fair and credible system.

I would like to hear from both of you about your agency's respective role in this process and how well the coordination is working. So let me first call on Mr. James.

Mr. JAMES. Thank you, Mr. Chairman. I have a number of committees where OPM has a sitting member with the committees. Every move that we make, OPM works with us hand in hand.

We have had the opportunity during the transition to ask OPM for waivers: One, a time and grade waiver, another was a waiver for employees that are on term appointments. The response has been very rapid, very quick from OPM, and we got an affirmative on both waivers. That allowed us to address employees' concerns and to ease the process of the transition.

For performance management, we have been working very closely with OPM. I have met with Director Berry twice, and working with his staff.

Any process that we put in place, including our design teams, using the authorities, it is our intent that OPM would be a sitting member on all design subcommittees. Thank you.

Senator AKAKA. Thank you. Mr. Grimes.

Mr. GRIMES. Thank you. As Mr. James noted, we have been working with DOD whenever possible. In fact, Senator Voinovich, we were invited to that meeting out in Cleveland that did not take place. So I have every confidence that as these authorities begin to be developed that we will be working hand in hand with DOD.

Senator AKAKA. Thank you.

Mr. James, as you know, the establishment and implementation of NSPS at DOD was a polarizing issue. Please tell us what you believe the successes and failures of NSPS to be and what lessons can be applied as DOD considers the establishment of a new performance management system.

ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00012 Fmt 6633 Sfmt 6633 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

Mr. JAMES. Thank you, Mr. Chairman. Prior to this job, I was a career civil servant, and I held a line job where I implemented NSPS. Prior to that, I grew up under the General Schedule system. I understand the challenges and the advantages of both systems.

I think one of the advantages of NSPS is that it provided a clear line of sight from the employees and employees' objectives to the priorities of the organization. I believe that the employees understood how they fit into the mission of the organization, which was critical to setting objectives and to establishing their performance objectives.

I think one of the challenges as we move forward really is engaging all of the stakeholders that have a concern about a new performance management system and hiring flexibilities. To that end, it is my intent to have an open and transparent process, inviting all stakeholders, including our labor partners, in developing the new authorities.

Senator AKAKA. Thank you. Mr. Grimes, in your testimony, you state that OPM has not yet formulated specific plans with respect to governmentwide performance management reform. What steps has OPM taken thus far in considering this issue, and do you believe OPM will release a proposal in the near term or wait until after DOD designs its new system?

Mr. GRIMES. Thank you, Mr. Chairman. We have taken a number of steps in terms of talking to stakeholders. We have talked to various employee groups. We have talked to unions. In fact, we have talked to you all about some possibilities. So I think it is fair to say that we are in the information gathering stage, looking at all the options that are out there before we develop a proposal.

I guess I would be hard pressed to say if I think that we will have a proposal ready this term or next, but we are moving forward. Thank you.

Senator AKAKA. Thank you.

Mr. Grimes, what are the key elements of a fair, transparent and effective performance management system, and what lessons can OPM learn from NSPS as it refines its performance management agenda?

Mr. GRIMES. I think one of the lessons that we can carry away from NSPS is that they had a terrific performance management system. It was quite transparent. It had an efficient automated appraisal system that drove alignment between the goals of the employees and the goals of the organizations.

The performance plans are focused on achieving results. DOD was able to track whether employees received progress reviews. Routine progress reviews are an essential part of a good performance management system.

Supervisors were held accountable for appraising employees and, again, that was tracked.

Extensive training on the performance management system was given.

The plans had a good balance between results and competencies—not only what you got done, but how you got your work done.

And the agency addressed organizational performance in relation to individual performance.

ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00013 Fmt 6633 Sfmt 6633 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

All of those are essential to a transparent and good performance appraisal system, and DOD did all those things under NSPS.

Senator AKAKA. Thank you very much.

Mr. James, one of the lessons we learned from the implementation of NSPS is that communication between supervisors and employees is essential to the success of any new performance management system. As DOD develops its new system, what is DOD doing to ensure that supervisors have the skills to effectively seek input and communicate changes to employees?

Mr. JAMES. Mr. Chairman, we would agree that one of the advantages under NSPS is that we forced communications between the employees and supervisors, especially the first-line supervisor which really is the transition between leadership and the rank and file.

Our plan is to continue with that and to train first-line supervisors in the areas of supervisor responsibilities, how to engage employees, how to measure performance for the entire organization and the opportunities that are available for supervisors to reward employees for superior performance. We believe that is critical to moving our organization forward.

Senator AKAKA. Thank you very much. Senator Voinovich, your questions please.

Senator VOINOVICH. I would like to comment that we are talking about 225,000 people in the process that started in March and get it all done by October 1 of this year, I do not know how you can do it and do it right. So that is my first comment. I just cannot believe it.

It is the same thing as when I got a hold of the Department of Defense and said you guys are going too fast, when I talked to Secretary Rumsfeld about it. I said you cannot do this.

So I would like your comment on how are you doing and how many classification appeals have you had from people that have been shifted back to the General Schedule.

In the second panel we are going to hear that the General Schedule system is sufficient for proper performance management. I would like you to comment on that issue.

So let's start out with the first question, Mr. James.

Mr. JAMES. Thank you, Senator Voinovich. It is the Department's intent to transition approximately 75 percent of the 226,000 employees that are presently in NSPS primarily to the General Schedule system by September 30, 2010.

We will accomplish this by engaging all the components—Navy, Air Force, Army Marine Corps, and the Fourth Estate which are DOD activities—and making sure that:

One, that the information technology (IT) capability is in place to accomplish the transition. I have visited the Human Resources Business, Information, and Technology Solutions Office in San Antonio, Texas where the performance management system redesign took plae. They are on schedule. The information technology process capability was in place on April 25.

Also to ensure that they have the classification capability in place, they do.

And that there is minimal impact to the mission of the organization and employees.

ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00014 Fmt 6633 Sfmt 6633 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

We have all those things in place. I have approved the components' transition plans, and they are proceeding accordingly. As of May 23, we have transitioned 53,000 employees out of NSPS primarily to the General Schedule system. We have had great success in that process.

At the end of June, we will transition likely another 15,000 employees out of NSPS.

Senator VOINOVICH. Have you had any appeals at all during that period?

Mr. JAMES. Sir, there is an appeals process for employees. I will tell you that my office has received e-mail from employees. We direct those inquisitions, inquiries to the components, and the employees are answered personally. We have communicated to employees that there is a process to appeal their classification.

Senator VOINOVICH. OK. How about the other question? We got into NSPS in the beginning because it was decided that Department's additional flexibilities were justified as being necessary to confront a new security environment that required the civilian workforce to become more agile, adaptable, and responsive. So, obviously, DOD felt that the General Schedule was not as good as it ought to be in terms of getting the kind of performance that you would like to get from people, including not letting a lot of them know exactly where they stood in terms of their job performance.

I guess the real answer to this is do you both think that the additional flexibilities that were included in the FY 2010 NDAA are necessary for you to have a situation where you have a system that will inspire your people to the kind of performance that you would like to see?

Mr. GRIMES. The General Schedule has some performance friendly features. The difficulty is that it tends to recognize and reward experience at the expense of performance. I think the flexibilities that you have given in NDAA, I think, will go a long ways towards helping adjust the balance between experience and performance.

But the General Schedule is not immune from recognizing performance. We can give quality step increases. The problem there is that those are fairly large "3 percent" increases. In the economic environment that we are in, they dwarf even the General Schedule increases in January. So there is an awful lot of emphasis on experience, when you get those within-grades every year or every 2 or 3 years.

Quality step increases are not given all that often, and they are fairly inflexible. You either get one or you do not, and in fact they are not used very much.

So it is probably a combination of structure and implementation that causes the problem with recognizing performance under the General Schedule system.

Senator VOINOVICH. Thank you.

It is my understanding that supposedly the new system is to be standing up by October 28 of this year, and it is my understanding that no specific discussions have taken place on use of the Department's new personnel flexibilities. The question I have is will the Department be able to meet this October deadline or will an extension be necessary?

ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00015 Fmt 6633 Sfmt 6633 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

Mr. JAMES. Sir, the Department intends to make a report to Congress by October. We will not have a system designed, and the regulations written and in place, by October.

We have engaged some stakeholders, and we are beginning the discussion. I put together an organization to address the individual authorities that have been authorized in NDAA 2010. So we are working hard to do that.

I believe the job that I am charged to do is to look at the General Schedule system and to determine if there are flexibilities that I need or I think that I need in conjunction with our stakeholders, to provide the flexibilities to incentivize today's workforce.

Senator VOINOVICH. Well, I would say that I would take your time and do it right.

Mr. JAMES. Yes, sir.

Senator VOINOVICH. Mr. Chairman.

Senator AKAKA. Thank you very much, Senator Voinovich.

Mr. James, I understand that research suggests that NSPS had a discriminatory impact on racial minorities with respect to performance ratings and payouts. I know that you have focused on fostering diversity and equal opportunity throughout your career in the Navy. I would like to know what steps you will take to ensure that any new performance management system at DOD is fair to all employees.

Mr. JAMES. Mr. Chairman, I have not had a chance to review all of the data out of NSPS. I am in the process of doing that as the data comes in.

Senator AKAKA. Thank you.

Mr. JAMES. My sense of what has occurred is we need to go develop a process in conjunction with many stakeholders that allows us to view this from many points. The team that develops the new process using the new authorities needs to be diverse. The diversity of that organization will help us address the concerns that you mentioned.

But I also believe that the deeper concern really fosters around mentoring where employees, especially new employees, are positioned in the organization, the opportunities that new employees have, how they are mentored and the opportunities that they see for promotion. In conjunction with the new authorities, it is important that we, as leaders and supervisors, meet with employees and get them to understand that there are opportunities in the Department of Defense and that we will reward superior performance.

Senator AKAKA. Mr. James, your testimony states that so far 21 percent of DOD employees transitioned from NSPS have been placed on pay retention. Do you know how many NSPS employees are expected to be placed on pay retention overall and the GS levels of these employees?

Mr. JAMES. Sir, we have not made a projection of the number of employees that will be on retained pay. I can tell you as of today—data I have as of May 23, 2010—there have been approximately 53,000 employees transitioned out of NSPS. Of those 53,000, approximately 11,000 employees are on retained pay for various reasons.

Senator AKAKA. Thank you.

ph44585 on D330-44585-7600 with DISTILLER
VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00016 Fmt 6633 Sfmt 6633 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

Mr. Grimes, in your testimony, you note that employees placed on pay retention benefited from a pay increase under NSPS and will receive higher pay than if they had remained under the GS system. However, there may be morale and retention concerns at DOD if a large number of employees who were receiving large raises yearly will receive only half raises in future years. How do you respond to these concerns?

Mr. GRIMES. Mr. Chairman, I agree that it is a possible concern for many employees who are transitioning out of NSPS into the General Schedule. They have got kind of a double whammy, if you will. They are not getting those large performance-based increases that they might have been used to. And now January comes around, and they will receive half the increase everybody else does.

However, they are bright employees, and if they think about it for a second, they will realize they are keeping that money that they earned under NSPS. It counts towards their high-3 average salary for retirement purposes. They are able to use it to contribute to the Thrift Savings Plan (TSP). It would count for their life insurance. It has enormous benefits that they have earned, and they get to keep that. So I think that if given a choice between getting half of the pay increase in January and keeping their salaries, they would make a good choice.

Pay retention is a very substantial benefit, and 11,000 people are already benefiting from it.

Senator AKAKA. Thank you.

Mr. James, I understand that approximately 25 percent of NSPS employees will transition to pay and personnel systems other than the GS system beginning next year. Can you please discuss how these personnel systems differ from the GS system and the challenges to moving to these systems?

Mr. JAMES. Thank you, Mr. Chairman. The 25 percent of employees that will not be transitioning out of NSPS by September 30, 2010 really revolves around categories of employees that the NDAA specifically makes allocations for. One of them is Science and Technology Reinvention Laboratory. The law calls out specific organizations that will transition to that personnel management system.

Prior to transitioning into the General Schedule system, there were employees who were in the Acquisition Demonstration Project. They transitioned from the Acquisition Demonstration Project into NSPS. The law dictates that they have to transition back to the personnel management system that they transitioned out of prior to NSPS.

Also, there is an allocation that is not in the NDAA but we have talked about in my office, which is the health care professionals. Physicians, dentists and other health care professionals will develop a new personnel management system under Title 38. When NSPS came along, they were subsumed by NSPS, and NSPS had the authorities that allowed us to properly compensate physicians and dentists. As they transition out of NSPS, they are now reviewing the Title 38 authorities and will develop a system under Title 38.

Also, there are employees that are affected by Base Realignment and Closure (BRAC), and there are employees that will transition

ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00017 Fmt 6633 Sfmt 6633 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

back to an alternative personnel system in the Department of the Navy.

Senator AKAKA. Thank you.

Mr. Grimes, your testimony mentions that the NSPS Transition Office's Website has been helpful to employees in understanding the transition process. Has OPM participated in the effort to inform employees about the transition process, particularly regarding how GS classifications are done and the right to appeal position classifications?

Mr. GRIMES. Mr. Chairman, I understand that DOD developed a GS 101 learning tool because some of these folks in NSPS, while they are going back to the General Schedule, never were in the General Schedule to begin with. They came in under NSPS. I am certain that we helped them with that.

I do not know that there is something specific on our Website about NSPS to GS conversions, but I can check and let you know.

Senator AKAKA. Thank you very much.

Mr. GRIMES. Thank you.

Senator AKAKA. Senator Voinovich.

Senator VOINOVICH. I really appreciated both of your descriptions of NSPS. Mr. James, you experienced it. Mr. Grimes, you are very familiar with it. Thank you for your comments in regard to it.

It is interesting that with 225,000 people, I think that about 913 wanted to create labor organizations after joining NSPS. That would indicate to me that a lot of people in the Department felt that the system that was put in place was relatively fair, understanding that any time you have a new system there are things that need to be worked out in the systems, as contrasted from the Government Accountability Office (GAO) where they went to a performance evaluation system, and there were so many people that were upset about it that they formed a labor union because of the fact they were unhappy with the system.

So I think that the people in the Department of Defense that were responsible for administering NSPS should be given a real pat on the back for a job well done.

And I do not think Gordon England will ever get any credit for it, but he was the one that was the quarterback on it, and I think the man really knew what he was doing. He really cared about employees, and he really wanted to try and get the job done the best way that it could possibly be done.

Mr. James, I recently met with a senior civilian leader who was concerned that the use of the retained pay status could result in his top performers leaving the Department to work for another organization that recognizes and rewards their performance.

Now Mr. Grimes did a pretty nice job when he answered Senator Akaka's question, that a lot of them can say, well, you got it.

I mean I went through this when I was mayor. I said you are overpaid, and they did not like it.

That means I am not going to get a pay increase?

No, you are not. But I said enjoy the fact that you have been overpaid.

So I think maybe that is right, and with the labor market right now maybe the fact of the matter is that a lot of people will stick around. But I cannot help but think that continued attention

ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00018 Fmt 6633 Sfmt 6633 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

should be given to this situation because you have got some really outstanding people, and I would hate like heck to lose them.

The other thing where we are at right now that is of concern to me—and Senator Akaka and I just sent a letter off to Mr. Zients—is that we have this wonderful opportunity to hire some people for the Federal Government that we really need, that under ordinary circumstances we might not be able to get. I just wonder, as we go after these people, if they have a system that does not recognize their performance that they may decide: I do not want to stay; I want to go to an organization that rewards my performance.

Most private organizations have pay-for-performance. They go through the performance evaluation process and so forth. So what we do in the Federal Government, to a degree, is unlike what they do in the private sector.

So I guess the only suggestion I have is that these new flexibilities that you were given under the law, which frankly I was not familiar enough with, could be very important at this time in terms of the Federal Government's competitiveness. Even though I say take your time, I think we ought to move on it because we ought to be able to say to people: Yes, it is not exactly like you have in the private sector, but we do have some flexibilities here. Or you do have performance evaluation, and if you are a top performer that can be recognized.

Anyone want to comment?

Mr. JAMES. Sir, we recognize that in the Department of Defense that we have a very highly trained workforce, that for the most part you cannot just walk out on the street and pick up the kind of folks that we need to execute our business. Because of that, we need to constantly bring in new employees to adjust for the attrition, but in addition to that we need to make sure that they are properly trained, they continue to be trained and that we reward superior performance.

The General Schedule system does have mechanisms in it to reward superior performance, but I believe with the new authorities there is a possibility that we could come up with new ways, or more efficient ways, to reward employees for superior performance and incentivize employees that take on more responsibility and more accountability within the Department of Defense.

Senator VOINOVICH. Mr. Grimes.

Mr. GRIMES. Thank you, Senator. We hear anecdotal, as well as other, evidence that young people today want to be a part of organizations where performance is rewarded. They are part of the video game generation, if you will, where they get instant feedback. They like that. They like to know when they are doing a good job. They want to know what they need to do and get down to it.

There was a WorldatWork Conference last year in which most of the participants said that they wanted differentiated performance assessment, that was key to improving customer satisfaction and organizational performance.

So I think at some point, whether this term or next, something is going to have to be done.

Senator VOINOVICH. Thank you. Thank you, Senator.

Senator AKAKA. Thank you very much, Senator Voinovich.

ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00019 Fmt 6633 Sfmt 6633 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

I want to thank you both on the first panel for your testimonies and your responses. We are glad to hear of your progress. We are concerned that it be done fairly as you continue to work and that the employees will work it out as well with you.

All of this is because we want to try to work together, and legislation is needed to improve the system, we may need to consider that. But in the meantime, we will continue to keep in contact with you to see how it is moving.

Senator Voinovich and I, of course, are looking for the best solutions. As he always says, the right person for the right job at the right time, and this is an opportunity for us to do that.

So thank you very much again for being here today.

Mr. GRIMES. Thank you.

Mr. JAMES. Thank you, Mr. Chairman. Thank you, Senator Voinovich.

Senator AKAKA. Now I would like to call up our second panel. On our second panel this afternoon, I want to welcome Greg Junemann, President of the International Federation of Professional and Technical Engineers, Patricia Niehaus, President of the Federal Managers Association, and Patricia Viers, President of American Federation of Government Employees Local 1148.

It is the custom, as you know, to swear in the witnesses, and I will ask you to please stand and raise your right hands.

Do you solemnly swear that the testimony you are about to give this Subcommittee is the truth, the whole truth and nothing but the truth, so help you, God?

Mr. JUNEMANN. I do.

Ms. NIEHAUS. I do.

Ms. VIERS. I do.

Senator AKAKA. Thank you. For the record, the witnesses did respond in the affirmative.

I want all of you to know that although your remarks are limited to 5 minutes your full statements will be included in the record.

Mr. Junemann, will you please proceed with your statement?

## TESTIMONY OF GREGORY J. JUNEMANN,[1] PRESIDENT, INTERNATIONAL FEDERATION OF PROFESSIONAL AND TECHNICAL ENGINEERS, AFL-CIO, CLC

Mr. JUNEMANN. Thank you, Mr. Chairman. Good afternoon. I would like to thank Chairman Akaka, Ranking Member Voinovich and Members of the Subcommittee for inviting me to testify today.

I would like to offer a special note of appreciation to Chairman Akaka and his Subcommittee staff. As a union representing tens of thousands of Federal workers, including Federal workers represented by International Federation of Professional and Technical Engineers (IFPTE) Local 121, at the Pearl Harbor Naval Shipyard, IFPTE commends the Chairman for his longstanding support to the members of IFPTE Local 121.

My testimony will first take a look at the transition from NSPS back to the GS system, followed by IFPTE's views on performance management and hiring retention.

[1] The prepared statement of Mr. Junemann appears in the Appendix on page 47.

ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00020 Fmt 6633 Sfmt 6633 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

We applaud the workforce provisions included in Fiscal Year 2010 National Defense Authorization Act, including those provisions allowing Federal workers to allocate unused sick leave toward their thrift savings plans. However, the highlight of the bill for IFPTE was the repeal of NSPS. The saga of NSPS is key to today's broader message because we believe it is a reflection of lessons learned as we consider the question of moving forward with comprehensive performance management in the Federal Government.

Setting aside the major flaws of NSPS and focusing on just the pay and performance evaluation part of the failed personnel system, data and studies have shown NSPS to be, among other things, a discriminatory pay system. White workers overall got higher raises than did racial and ethnic minorities. Workers at the higher end of the pay scale, or those with plum assignments, benefited under NSPS while others lost out. For example, those working in higher commands or at the Pentagon received higher ratings and pay than their counterparts in less visible locations.

To lead this transition and in an effort to change from the controversial culture with respect to NSPS, this past January, the Department announced the appointment of John James to head the transition from NSPS to GS. IFPTE believes that Mr. James's appointment is a step in the right direction. While we continue to be vigilant and aggressive in working on behalf of our membership, we believe that Mr. James's presence in leading this effort will prove to be a huge improvement.

Along with the repeal of NSPS come the requirements that no worker suffers a loss in pay through this transition. We certainly agree with this requirement, but it does present a different task of figuring out how to accomplish this. While we support pay retention, there still remains a glaring flaw that must be resolved. Workers put under retained pay have the potential of receiving lower raises indefinitely. There will likely be some circumstances where the top level of a GS salary of a particular grade may never catch up.

Given this, IFPTE would recommend that another approach be considered. Instead of retained pay, IFPTE seeks a proposal to create two additional steps within grades, Steps 11 and 12, with corresponding pay raises for each GS grade. DOD could make the length in time to reach these steps 5 years, with a sustained performance required in each of those years, to achieve Step 11 and consequently Step 12.

In discussing a sensible replacement for NSPS, IFPTE believes that in addition to creating a system with labor as a fully participating partner the expectation is that any new performance system makes full use of the flexibilities already inherent within the GS system.

Along with what DOD is doing, OPM and the Office of Management and Budget (OMB) have indicated that they intend to move forward on performance management systems that will impact just about every Executive Branch agency in the Federal Government. While there are few details of the potential OPM/OMB proposal that IFPTE has been made privy to, we have received assurances from OPM Director John Berry that labor, including IFPTE, will be

ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00021 Fmt 6633 Sfmt 6633 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

an equal partner in any attempt to develop any new government management system impacting Federal workers. Our union applauds Director Berry for his interest in involving labor.

Admittedly, IFPTE remains eager to learn the logistics of how all this will play out. Will DOD simply defer to OPM and OMB, or will they move forward on their own? Regardless of how this takes shape, our future success will depend on how equal are the equal partners, how fair is fair and how good is the good faith between the parties.

Outside of bargaining a new performance management system across every locality, IFPTE believes that a fair and comprehensive performance management system can be achieved through the existing flexibilities provided in the current GS system. GS has all of the elements to achieve a system that can reward good performers, penalize poor performers and provide flexibility necessary to hire and fire.

IFPTE also believes that in order to address the hiring and retention problems facing the Federal Government that Congress must act on legislation that creates an environment where people look forward to spending a career as a public servant.

This concludes my testimony. Thank you again for the opportunity to be here today. I look forward to any questions the Members of the Subcommittee might have.

Senator AKAKA. Thank you very much, Mr. Junemann. Now we will hear from Ms. Niehaus.

## TESTIMONY OF PATRICIA NIEHAUS,[1] NATIONAL PRESIDENT, FEDERAL MANAGERS ASSOCIATION

Ms. NIEHAUS. Chairman Akaka and Ranking Member Voinovich, thank you for the opportunity to present the Federal Managers Association's (FMA) views before you today. As stakeholders in the successful transition out of the National Security Personnel System, we appreciate the opportunity to appear before you.

The face of America's workforce is changing. A model once attractive for employing the most talented members of the workforce, the Federal civil service now appears unreflective of new job seekers' expectations by today's standards. The current General Schedule pay system and performance review methods are antiquated. We at FMA support any changes that establish increased flexibilities, accountability and performance results. NSPS promised to deliver on these personnel components but ultimately failed to live up to its billing.

In my written statement, I detailed FMA's position on a wide range of topics including performance management and managerial training. I would like to focus my oral statement on one aspect of the NSPS transition, mainly the repeal and its impact on employees.

The Fiscal Year 2010 National Defense Authorization Act stated that all employees must transition out of NSPS by January 1, 2012 and provided DOD 6 months to report to Congress on its plans for conversion. Enactment of the law signified the end of the controversial pay-for-performance system, but it marked only the beginning

[1] The prepared statement of Ms. Niehaus appears in the Appendix on page 57.

ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00022 Fmt 6633 Sfmt 6633 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

of a long, tenuous process of determining how to manage the 226,000 Federal employees who served under NSPS.

Under GS pay retention rules, those NSPS employees whose pay exceeds Step 10 of their corresponding GS grade will receive only half the annual pay raise until the GS system catches up with them, if it ever does. To date, of the 53,000 employees who have transitioned out of NSPS, 21 percent—or over 11,000 employees—are currently under pay retention. If this formula holds true for all NSPS employees returning to the General Schedule, nearly 37,000 employees could be negatively impacted.

DOD is taking strides to reclassify all NSPS employees regardless of pay status as prescribed under the law. The onus is on senior DOD leadership to properly classify these employees prior to their slated transition dates. We remain concerned that the expediency with which DOD is returning NSPS employees to the General Schedule will impede leadership from taking the time to classify these positions adequately.

The Department stated that it expects employees will be concerned about pay and that it intends to study this issue after classifications are finalized. We caution that by waiting until the classifications are over the employees will, at the very least, be subject to pay retention for 1 year. We also worry that this problem will be ignored once the transition is complete.

We regret the Transition Office is unable to provide concrete numbers on how many people will be affected by pay retention as we believe the numbers will have a direct impact on any possible solutions. If we are in fact faced with a situation where tens of thousands of employees are placed on retained pay, we believe you will be dealing with a disgruntled and demoralized workforce which has now been shifted in and out of different pay systems within 3 years.

Many of these dedicated employees, myself included, have crunched the numbers and determined that the General Schedule will not catch up with them by the time they are eligible to retire. As such, pay retention not only affects the current pay received by these employees but could also negatively impact their high-3 average salaries, which is used to calculate retirement benefits. Many of these employees feel they are being punished for performing above average work under a system in which they did not ask to participate. We believe, and will continue to stress, that no employee should lose current, future or retirement pay when converting back to the General Schedule.

Language included in the House version of the Fiscal Year 2011 NDAA requests that DOD report to Congress by November 15, the agency's plans for a nationwide January 2011, pay adjustment, including information on employees under pay retention. We believe this is a step forward but lends little time for congressional action before the January 2011 pay cycle.

We at FMA believe there are many options the Pentagon and Congress could pursue to mitigate the effects of retained pay. While pay retention may be inevitable in certain situations, we lay out several avenues DOD and Congress should consider in our written testimony.

ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00023 Fmt 6633 Sfmt 6633 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

Many FMA members were pleased with Congress' decision to end the National Security Personnel System. It is not our desire to delay or halt the rollback of the controversial system. However, more attention must be paid to the impact the transition has on employees who keep DOD functioning.

We appreciate the attention the Subcommittee is placing on this issue, and we hope this hearing will be the jumping-off point for further discussions on pay retention.

Thank you again for the opportunity to express our views, and I am happy to answer any questions you may have.

Senator AKAKA. Thank you very much, Ms. Niehaus.

Ms. Viers, will you please proceed with your testimony?

**TESTIMONY OF PATRICIA VIERS,[1] PRESIDENT, LOCAL 1148, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO**

Ms. VIERS. Thank you, Mr. Chairman and Senator Voinovich. Greetings from Columbus, Ohio. On behalf of the American Federation of Government Employees (AFGE), which represents 600,000 Federal workers including 260,000 in the Department of Defense, I appreciate the opportunity to testify today on the National Security Personnel System and performance management in the Federal Government.

During the lifetime of NSPS, DOD did not convert bargaining unit employees to the system, first because of litigation over the regulations and then, after the Congress required DOD to operate within 5 U.S.C. Chapter 71, the Department chose to avoid negotiations over NSPS by continuing not to convert bargaining unit employees. As a result, AFGE has very few employees we represent who are under NSPS, and therefore we have little direct experience with the system.

The only reason we do have some bargaining unit employees in NSPS is because its lack of fairness and transparency made the employees understand they needed a union, and they organized after being converted to the system.

We understand there are some complaints by employees who converted back to the GS system and are in a pay retention status that will temporarily limit future pay increases. Although we do not wish to see any employee disadvantaged by their conversion out of NSPS, I think it is important to put this situation into perspective. Employees have made enough additional money under NSPS that they have to be on pay retention when they are put back into the appropriate GS grade already got what could be considered an early raise and have benefited from being at these higher pay levels for some length of time. Fortunately, they will continue to benefit because their pay will not be lowered; it just may not rise as quickly as it did under NSPS.

AFGE was greatly concerned, as you know, Mr. Chairman, with whether the NSPS pay system was being fairly administered to all employees. DOD's own internal evaluation of NSPS showed the disparate impact of NSPS raises based on factors having nothing to

[1] The prepared statement of John Gage, submitted by Ms. Viers appears in the Appendix on page 70.

ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00024 Fmt 6633 Sfmt 6633 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

do with performance. The report, done by SRA International and released last June, show inequities based on race, salary, position and where in the DOD hierarchy one worked.

Perhaps the most damning statistic was that the percentage salary increases and the percentage value of bonuses were more correlated with income level than with performance level. Higher level, higher paid employees got higher performance ratings and payouts than lower level, lower paid employees. The disparity was especially great between employees earning $100,000 or more and employees earning $60,000 or less.

Further, in general, being a racial minority had a negative effect on one's rating and payout, and being black had a more negative effect than membership in other racial groups.

So we know that a significant number of good employees lost money under NSPS.

I am pleased to note that AFGE and the unions from the United Defense Workers Coalition have met several times recently with Mr. James to discuss the authorities granted in the NDAA 2010. We have jointly agreed to convene a conference to develop ideas for the new systems authorized by the law. The unions are presently developing our ideas for a joint design for the conference to share with DOD. We are optimistic that this better process will result in a far superior product than was ever a possibility under NSPS.

Specifically, AFGE believes that performance management need not be as complicated as many systems are. First, employees must be told what is expected of them and what they need to do to meet those expectations. What does the employee need to do to be in good standing and avoid being not in good standing? And, of course this should not just be a one-way lecture but a real discussion about the job, the mission, the tools, the assignments, the employee's strengths and weakness, and how he or she can expand the former and improve the latter.

There also needs to be a recognition and award system for exceptional performance, as well as for smaller but also valuable contributions. AFGE has negotiated such systems with many other agencies which meets the needs of the Agency and the worker, to create workforce incentives that are meaningful, evolving and up to the minute. We are eager to establish similar, successful recognition and awards programs through our negotiations with DOD.

I want to emphasize a point that you, Mr. Chairman, and Senator Voinovich have made many times before. Supervisors have not been adequately trained to develop and motivate employees nor are they supported when they do take the time to discuss performance with employees, document performance, or fight for the rewards or remedial actions they believe their employees need and deserve.

There never seems to be enough money allocated to develop employee skills or to reward them for their high performance. Training money is one of the first victims of budget cuts, and award money is close behind. Developing employees through career ladder programs, training programs, recognition and enhancement of their talents, and career mobility must emphasized. But if this is to be zero-sum budget game where some employees are rewarded only because other good employees are losing, we will never succeed in

ph44585 on D330-44585-7600 with DISTILLER
VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00025 Fmt 6633 Sfmt 6633 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

improving performance management in the delivery of government services.

Through collective bargaining and labor management forums, we can create better systems to evaluate performance, reward it and develop employees for the future needs of the organization. We will continue to work closely with DOD and OPM, so that our bargaining units can bring their ideas and interests into achieving our agencies' missions and serving the American public.

This concludes my statement. I will be happy to respond to any questions.

Senator AKAKA. Thank you very much, Ms. Viers.

Mr. Junemann, in the past, you repeatedly criticized NSPS for its lack of transparency. As DOD considers a new performance management system and OPM contemplates a possible governmentwide reform, I would like to know what features you believe any new system must include to make it as transparent and understandable as possible.

Mr. JUNEMANN. Thank you, Senator. As we discussed before with your Subcommittee, training is essential—training not only among the employees but of the supervisors. I have a lot of experience with pay-for-performance systems in the private sector as well, and when they succeed is because the employees have belief in them, that they have belief that their performance will be fairly evaluated. So they know that. Part of that is that they have to know that their supervisor has been properly trained to evaluate them.

What happens in too many cases is that the supervisor ignores his or her obligation to do the evaluation until the day before. So, if my evaluation is due on July 1, my supervisor starts thinking about it on June 30. And if that happens, then the system will not work.

So what has to happen is the employee has to be assured that his or her performance is being evaluated all the way through, so that they know again that when they get evaluated they will be comfortable, that they know what is expected of them, that their supervisor will be monitoring their work, the projects that they have worked on, all the way through until finally the evaluation comes, and there should be no surprises.

Senator AKAKA. Thank you very much.

Mr. JUNEMANN. If that is in the system, it should work. Training, and that is part of the transparency, the training and the acceptance by the employees involved, that the training has been done, not only of them to do the work better but of their supervisors to evaluate them. That is essential.

Senator AKAKA. Thank you very much, Mr. Junemann.

Ms. Niehaus, I believe that one reason that NSPS was not successful was that it was not easily understood by employees or supervisors. The NDAA included some safeguards for any new performance management system at DOD, including requiring training and transparency measures. What should be done to ensure that employees and supervisors truly understand and accept any new performance management system?

Ms. NIEHAUS. I believe training is key, sir, in the understanding and acceptance of any personnel system. I believe that initial train-

ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00026 Fmt 6633 Sfmt 6633 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

ing is necessary for any new system, and I believe follow-up training is also necessary.

I was one of the trainers at Travis Air Force Base for both performance management under NSPS and for other provisions under NSPS. One of the things that we found was that employees who were engaged during the training fared much better under the system because they understood it better. So I believe that if employees participate in the training, they will do better.

We also had training for employees under NSPS in how to write their self-assessments, and we have reports from employees. I did not track it as far as checking the ratings of the employees, but I did track it by anecdotal evidence from the individuals who attended that training, and they felt more comfortable that their supervisors received better self-assessments which enabled the supervisors to perform better assessments of their performance.

So I think that training on all aspects and more than just once is necessary for any new personnel system to succeed.

Senator AKAKA. Thank you.

Earlier, we heard what steps DOD has taken to comply with the NDAA's requirement that employees and their representatives be involved in the design of any new performance management system at DOD. I would like to hear from both of you on this issue as well. Thus far, do you believe DOD has sufficiently included you in this process?

And I am asking this of Mr. Junemann and Ms. Viers.

Mr. JUNEMANN. Sure. Thank you, Mr. Chairman.

Yes, where we represent DOD people, and we represent all four Navy shipyards, I think 19 Army Corps facilities, we have been engaged pretty much with supervision on reevaluation again at local levels.

Some of it, I mean this is sort of the bad part, is that supervision had a requirement to do performance evaluations under GS before NSPS was enacted. They simply were not doing it.

Then when we saw NSPS come along, that one of the failings of it was they had a requirement to do it before, and it was being done.

So now here is a new requirement under a different law, almost as if Congress was being asked to legislate good management. So now that they are under the GS system again the locals are working with their separate human resources (HRs) to make sure that it is done right this time.

That is looking at the failings that happened, not because of the GS system but because of the employees working in it—management, supervisors and the employees themselves. Like, collectively, we were not doing this. We all knew we were not doing it, regardless what the statute said. So now we have a real bite at the apple. Let's make it work this time.

So there are programs going on at the local level.

Specifically, if you wanted to ask me what is happening at Portsmouth Naval Shipyard or what is happening at Pearl Harbor or what is happening at, say, an Army Corps facility in Portland, I would have to get back with you on that.

Senator AKAKA. Thank you. Ms. Viers, your comments.

ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00027 Fmt 6633 Sfmt 6633 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

Ms. VIERS. Thank you, Mr. Chairman. AFGE feels strongly that we are being engaged in this process. We also strongly supported granting DOD the flexibilities in performance management and hiring in the NDAA 2010.

We believe that Mr. Grimes is correct when he says NSPS performance management system improved communications between supervisors and employees. We hope to build on that in this process, and we hope it will lay a foundation for developing a new performance management system that is accountable to employees, the Department and the warfighters that we are so proud to support.

Senator AKAKA. Yes.

Ms. Niehaus, you testified that FMA has not yet had the opportunity to provide feedback on any future personnel system. I would like to hear your views on this issue as well.

Ms. NIEHAUS. We have met with Mr. Berry and Mr. James on the potential for FMA's involvement in the development of the new personnel system under DOD.

We were invited to participate in the Future Search Conference that was cancelled almost immediately after being scheduled, and it has not yet been rescheduled, but we have been assured that we will be invited to participate in it at that time.

Senator AKAKA. Well, thank you very much.

Senator Voinovich, your questions.

Senator VOINOVICH. I am interested in the observations about the NSPS system. When we got involved in it, I knew that labor unions had a real concern about the impact on their members. In fact, I echoed some of your concerns in comments that I submitted during that formal notice and comment period for the NSPS rule.

Ms. Viers, thank you. Nice to have you here from Columbus, and I think you and I talked about this at one time. But at the time, we thought your members would be involved, and then they ultimately were not.

But, as you know, the Department decided to exclude bargaining units, and this development left a pay-for-performance system that would ultimately affect only 913 unionized employees who elected to organize after joining NSPS, or less than one-half of 1 percent of the 225,000 employees covered by NSPS.

And I have already mentioned the fact that I think if people were really unhappy with the NSPS they would have done the same thing they did at GAO and said, look, we do not like this. We are going to form a union. But, in general, they did not.

Even before the problematic pay disparities correlated with race, gender and job assignment were revealed, your organizations continued to oppose NSPS and called for its repeal.

And we now see similar opposition to the Defense Civilian Intelligence Personnel System despite a recent report by the National Academy of Public Administration that found implementation flaws in an otherwise "fundamentally sound system, conforms to accepted principles for designing performance-based compensation systems."

So a skeptic might argue that the unions are opposed to NSPS or any kind of performance—I know you are opposed to NSPS, but any kind of flexibilities or performance evaluation. So, Ms. Viers,

ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00028 Fmt 6633 Sfmt 6633 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

I am really pleased to hear that you think that a system can be put in place.

And I am hopeful that in the dialogue—Ms. Niehaus, you mentioned you met with Mr. Barry and Mr. Grimes—that there be a robust discussion of this and some consensus about how we go forward with the NDAA authorities because I think it is not only going to be important to your members, but it is also going to be important to our national security and to the future of our Country.

I was interested, Ms. Niehaus, when you were saying that you are really concerned that even with retained pay status, that a lot of your folks are never going to get caught up. And you heard some people out there say they got too much; they ought to be happy with it.

But what impact do you think that is going to have on some of your people, that this will be their three highest years? Do you think some of them are going to tip their hat and say I am out of here?

I mean you talked about 11,000 so far. If you follow the numbers, it could be 37,000 people——

Ms. NIEHAUS. Yes, sir.

Senator VOINOVICH [continuing]. That are going to be on retained pay status. I would suspect they may be some of the best performers in the Federal Government. What are they going to do?

Ms. NIEHAUS. The indication we have had from many of our members is that they are already seeking employment outside the Department of Defense, which we find very discouraging.

I believe that some will do just exactly what you said. They will retire rather than remain on pay retention.

It is disheartening that they will not continue because I do believe, as you said, they are the best employees in the Department of Defense because they were required to perform at successively higher levels in order to maintain those high ratings after the first year.

Senator VOINOVICH. Mr. Junemann, you had how many members in NSPS?

Mr. JUNEMANN. We had 94 in NSPS.

Senator VOINOVICH. OK. So that is 94 that you can identify.

Did any of your members benefit from NSPS, i.e., take advantage of their high performance and got a better pay increase?

Mr. JUNEMANN. Yes, to my knowledge, the workers at Omaha. I think there is about 40 at an Army Corps facility at Omaha, Nebraska, who actually joined the union to get out of NSPS, but they received higher than, I guess expected raises. I do not have the numbers right in front of me.

Senator VOINOVICH. Well, the thing is that they were part of the NSPS system, but they also joined the union.

Mr. JUNEMANN. Yes, sir.

Senator VOINOVICH. Just for the record, that is 94 people. I would be really interested in the statistics in terms of your 94 members, how many of them got an increase in pay because of the system. And I am sure some of them are unhappy because they did not think they got as much as they were entitled to.

But it would be very interesting, I think, because you have 94 people to look at, and I would ask the chairman if you would re-

ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00029 Fmt 6633 Sfmt 6633 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

spond to me in writing about just what happened to your 94 members in terms of this system.

I guess all I can say at this stage of the game is this: I am leaving the Senate. As Senator Akaka says, we have spent 10 years trying to improve conditions for Federal workers. We have passed more Federal workforce legislation than any similar period. We have tried to make the Federal Government as competitive as we can, even for people coming in at the mid-level.

Under the old regime, if you are here a year you got 1 week of annual leave, you are here 3 years you get 3 weeks, and then you had to be here for 15 years before you got a month. And we thought that was not competitive, that you are not going to be able to draw people, and so we changed how leave is accrued.

Or the student loan repayment program that was capped at $40,000 and $6,000 a year, and we bumped the program up to a $60,000 cap, and $10,000 a year to try to make the Federal Government as competitive as we can possibly be.

So I just hope that you all work together and come up with something that you are happy with, that is fair, but that the folks, they ought to know if they really work their butt off and do a great job, that it is going to be recognized because we have had too many people that have left the Federal Government. They just finally throw up their hands and say: I am leaving. Everybody has got to get treated the same, and that is not a place for me.

Maybe some of them interpret things differently, but I know too many people that have left the system because of the fact that they felt that it did not reward them for the work that they were doing and that the system really ground itself down to the lowest common denominator. Let's come to work, put in your time and go home.

Not to take anything away from our Federal workers. I know, Ms. Viers, you work at DOD. I know you work hard. I am not taking anything away from them, but I just think that there is that feeling of, I would like to be recognized, I would like to be rewarded.

And I think a performance management system is good. I think you laid that out—I think you did, Ms. Viers. People ought to know where they stand. They want to know they are not performing poorly. They want to know, what do you expect of me? Am I doing good? Am I doing bad? And if I am doing bad, what can I do to correct my situation, so I can do better?

We all want to be recognized for doing a good job. Some just want to be recognized. So I think that is what this is all about here—to try and come up with a system that will get that done and where people will feel good about coming to work every day and do everything that they can with the talent God gave them, to make a contribution to our Country.

Senator AKAKA. Thank you, Senator Voinovich.

Senator VOINOVICH. Do you want to comment, Mr. Junemann?

Mr. JUNEMANN. Yes, Senator, I will be happy to provide you with that. We actually have talked to a good share of the 94 people about what do you feel about retention, what do you feel about what is going to happen here.

ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00030 Fmt 6633 Sfmt 6633 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

And I should tell you from my end, again we have even outside of the Federal Government, we represent like 25,000 engineers, technicians and scientists at Boeing that are all under a pay-for-performance system. We represent about 1,000 workers at General Electric that are under pay-for-performance. I helped, and it works.

I helped to organize a group of engineers at United Airlines where I had to write a letter to every employee guaranteeing them that, or assuring them that the union would work hard to put a pay-for-performance into the contract if we ended up getting a union there. So we are not opposed to it. We are in favor of something that works.

At Boeing, we do not even have seniority, at least until I think it is like 10 years. But the evaluation is what determines retention and transfer rights and promotion rights. So it is not like we are not in favor of it at all, but it has to be open.

I had members come to me while we were going through the Meet and Confer process and all the other stuff that was going on in the mid part of this decade, and they retired. They were deathly afraid of what was going to happen to them and their rights under NSPS if that was implemented, and it is not because they were poor performers and thought they might get caught. They just had no idea what this wave was going to do to them once it washed over.

Senator VOINOVICH. Thank you.

Senator AKAKA. Thank you.

Let me ask a few more questions. Ms. Viers, I was glad to see in your testimony that you are at least cautiously optimistic that labor organizations and DOD can work together to create a more effective performance management system than under NSPS. I hope labor and management will be able to work together to accomplish this goal.

What specific steps will your union take to educate your members about the new performance management system once it is developed, so it can be implemented smoothly?

Ms. VIERS. Senator, thank you for the opportunity to respond to that question. I can tell you that we will, as long as the employees know they have a voice in designing the system, which they will, we will get that message out to them. It is their input that we are bringing to the table, to DOD, so they obviously have ownership. When they have ownership in a system, specifically a performance management system, that is a positive thing. So we will do everything we can to get the message out to our constituents.

Senator AKAKA. Thank you.

Mr. Junemann, I would like to hear from you on this question as well.

Mr. JUNEMANN. Yes, Mr. Chairman. Thank you. So we are currently working with the Federal Mediation and Conciliation Service (FMCS) and the Federal Labor Relations Authority (FLRA) who have training programs that are going on, not only with labor but with supervisors and managers as well, and this is going on throughout the Country. We are participating in those.

Additionally, especially within the Navy Sea System Command (NAVSEA), we are doing a lot of work, partnership ventures with management on a national, as well as on a local, level. Part of that,

ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00031 Fmt 6633 Sfmt 6633 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

I mean really a lot of it is just bringing success to the mission of each organization.

So we are heavily engaged in that. We believe in that very strongly, and the mission of the organization is also lifting up the people who work there. So it is going to be part of the overall effort to do that.

Senator AKAKA. Thank you.

Ms. Niehaus, you state in your testimony that many supervisors reported that NSPS was too burdensome and they did not have the time to provide employees with written job objectives or performance ratings as required. What suggestions do you have to establish an efficient and practical system for appraising employee performance that would have better buy-in from supervisors?

Ms. NIEHAUS. I think that a system that enables a supervisor to structure an employee's position and their goals for that employee without having to work through a long process to get there. Many of the supervisors that I have personally been contacted by were concerned that the performance appraisal application tool, the automated system that was used under NSPS, appeared very cumbersome and not user friendly to them. Some of those supervisors had never had to work with automated systems for performance management. So I think perhaps more intensive training on whatever system is going to be used would be better for supervisors.

I think the basic premise of writing an individual's objectives each year is a good one.

I think meeting with employees and giving them feedback is absolutely necessary, and I think that is part of a supervisor's position. I do think that in some areas under the GS system, supervisors were not doing that, and I think that it was a detriment to the employee and to the supervisor because there was no way to track whether they were doing it or not.

So I think in some respects, and I have to say some of our members felt that because they did not have to do it under the GS system they should not have to under the NSPS system, which I have to admit I disagree with.

Senator AKAKA. Well, thank you, and I want to thank our witnesses for attending this hearing and providing thoughtful testimony and answers to our questions.

As the largest Federal agency, the Department of Defense should serve as a model for the other agencies. I am pleased with the steps DOD has taken to transition employees out of NSPS, both quickly and thoughtfully. I am also glad to hear that DOD and OPM are working with employees and supervisors as performance management changes are considered at DOD and governmentwide.

I look forward to working with DOD and OPM in the coming months on these very important matters.

Again, thank you for being here. The hearing record will be open for 2 weeks for additional statements or questions other members may have pertaining to the hearing.

And I want to take this time to say thank you very much to Senator Voinovich's staff and my staff, and the hard work that they have put into these hearings, I really appreciate it.

This hearing is adjourned.

[Whereupon, at 4:09 p.m., the Subcommittee was adjourned.]

ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00032 Fmt 6633 Sfmt 6633 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

# APPENDIX

---

STATEMENT OF

MR. JOHN H. JAMES, JR.
DIRECTOR
NATIONAL SECURITY PERSONNEL SYSTEM
TRANSITION OFFICE
DEPARTMENT OF DEFENSE

BEFORE THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT,
THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA
UNITED STATES SENATE

ON

THE NATIONAL SECURITY PERSONNEL SYSTEM AND
PERFORMANCE MANAGEMENT IN THE FEDERAL GOVERNMENT

JUNE 9, 2010



ph44585 on D330-44585-7600 with DISTILLER
VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00033 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT
58031.001

Mr. Chairman, Senator Voinovich, and distinguished members of the Subcommittee: Thank you for the opportunity to speak with you about implementing the repeal of the National Security Personnel System (NSPS) and acting on the personnel authorities provided to DoD in Public Law 111-84 (the National Defense Authorization Act for Fiscal Year 2010 (NDAA 2010)).

Transitioning approximately 226,000 employees from NSPS to the appropriate statutory non-NSPS pay and personnel system is a very high priority for the Department, and I'll talk about that first.

**NSPS Repeal**

NDAA 2010 repealed the statutory authority for NSPS and directed the Secretary of Defense to take necessary actions to provide, beginning no later than 6 months after the date of enactment, for the orderly termination of NSPS and transition of all NSPS employees and positions from NSPS by not later than January 1, 2012. The law requires that no employee will suffer a loss of or decrease in pay upon transition from NSPS due to its termination.

The last organizations and functional units converted to NSPS in February 2009. Approximately 226,000 DoD employees were covered by NSPS before we began the drawdown – a larger workforce than any Executive Agency has, with the exceptions of the Department of Veterans' Affairs and the U.S. Postal Service.

DoD established the NSPS Transition Office to provide overall management and direction of NSPS transition activities to be carried out by the DoD Components comprised of the Military Departments, Combatant Commands, Office of the Secretary of Defense, Defense Agencies, and DoD Field Activities. The Transition Office works closely with leadership DoD-



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00034 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.002

wide in planning, developing policies, preparing training and other tools, and guiding the orderly termination of NSPS with minimal impact to the DoD mission.

The Department's goal is to complete the transition of the vast majority of the NSPS population during Fiscal Year 2010. The rules of the gaining pay and personnel system will be followed in determining placements of NSPS employees into appropriate non-NSPS pay and personnel systems. Indicators of readiness for transition include that NSPS positions are classified following the rules of the gaining system and that a viable performance management system is in place.

Approximately 75 percent of NSPS employees and positions will transition to the GS classification and pay system during Fiscal Year 2010. In that NSPS employees have made up about 40 percent of our white collar workforce, this approach lets us bring together most organizations' employees under the same system this year. The remaining 25 percent of NSPS employees is scheduled to transition to other pay and personnel systems between spring 2011 and January 1, 2012. Five groups are affected. First, NDAA 2010, section 1105(c) requires seven organizations that had been under NSPS to establish laboratory personnel demonstration projects and transition their NSPS employees to those systems. Another group is employees in organizations returning to the Acquisition Workforce Personnel Demonstration Project. A third group is employees in technology organizations that will return to the Navy's alternative personnel system, not having been included in section 1105(c). The fourth group is physicians and dentists and prospectively other health care provider occupations (for example, nurses and physical therapists) who can be paid under existing title 38 United States Code pay authorities. DoD is also exploring developing a modified pay system under title 38 United States Code authorities. DoD previously deferred from exploring this authority in light of NSPS pay



ph44585 on D330-44585-7600 with DISTILLER
VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00035 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT
58031.003

flexibilities. The fifth group is employees in organizations affected by Base Realignment and Closure, who will remain in NSPS until closure or individual placement.

Since the majority (approximately 75 percent) of NSPS employees will transition to the GS system, I would like to address the measures we are taking to reclassify positions from the NSPS broad pay band system to the GS grade system; safeguards to ensure due diligence in the transition process and to buffer employees as they move from NSPS pay bands to the GS grade system; and the Department's initiatives to train employees, supervisors, and managers on the transition process.

**Reclassification of NSPS Positions into the GS System**

NSPS is fundamentally different from the GS system. The NSPS classification structure allows for progression from the entry/developmental level to journey and expert levels of work similar to a GS career ladder. It recognizes ranges of difficulty in various organizational and work situations; and provides a pay structure that offers employees advancement opportunities within their broad band based on performance or contributions to mission and on the acquisition of important competencies, skills, and knowledge. While classification of an NSPS position is based on the primary duties and responsibilities of the position, level of difficulty, occupational qualifications, and competency requirements, pay bands are wide and encompass a broad range of duties and responsibilities found in several grades of the GS system.

Under the GS classification system codified in title 5 of the United States Code, duties and responsibilities are tightly defined in discrete grades based on the level of difficulty and responsibility and the level of qualification requirements of covered positions. Because the two systems are so different, transitioning employees from the NSPS pay bands to GS grades



ph44585 on D330-44585-7600 with DISTILLER
VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00036 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT
58031.004

requires a significant level of effort and classification of positions using distinctly defined criteria.

From a technical perspective, NSPS employees' placement in the GS system is determined by application of the Office of Personnel Management (OPM) GS classification standards and guides to the employee's permanent NSPS duties and responsibilities at the time of transition. The employee's position is assigned a GS title, series, and grade based on that determination. Our transition process starts with confirmation by management that the employees' job descriptions are appropriate for the work that is assigned. Many NSPS employees are in jobs that already have a GS pedigree, with descriptions from before conversion or that cross-reference the GS classification. If the employee's duties and responsibilities have changed significantly under pay banding without triggering a change in description, management is asked to address that with a new position description for transition. Alternatively, since each NSPS pay band encompasses a range of GS grades, employees within an NSPS pay band on the same broad description may be performing work equivalent to different GS grade levels, and upon transition from NSPS will be assigned to different position descriptions at different GS grades.

For employees in positions that are in NSPS developmental pay bands or that management otherwise set up on a developmental track, GS career ladders will be established. NSPS employees in these positions will be transitioned to the appropriate GS grade in the ladder depending on the duties they are performing, and they will have eligibility for noncompetitive promotion to the full performance GS grade identified when they transition from NSPS.

**Due Diligence for Transition Classification**



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00037 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.005

I believe that the Department is exercising due diligence to ensure job descriptions and GS job classifications for the transition are appropriate and in compliance with OPM classification standards, rules, and guidance. Each Service and Defense Agency put in place a process to ensure that position descriptions are accurate and completely identify the duties and responsibilities of the position.

Army, for example, tracked GS classification equivalency for most of its jobs while NSPS was in effect. They developed an automated tool (NSPS2GS), capitalizing on their on-line position description library (FASCLASS) and its integration with the Defense Civilian Personnel Data System (DCPDS). Supervisors could review all their subordinates' descriptions and GS classifications in FASCLASS. Descriptions that did not have a GS equivalency were displayed in the tool; and managers reviewed, annotated, and sent them to the servicing civilian personnel organization for prompt classification determination and documentation by a team of classification specialists seasoned in the GS classification system. NSPS2GS also contains a transition report for organizations that reflects the employees' GS grades and that is available to managers to review prior to transition and raise areas of concern with the servicing Civilian Human Resources Agency (CHRA) office.

Navy, beginning after the decision to repeal NSPS in NDAA 2010, began an aggressive effort to ensure that position descriptions were current and accurate, consistent with the GS classification standards. Organizations executed a full review of position descriptions, identifying those that were newly established under NSPS as well as those previously under GS with significant changes. Those position descriptions that required changes were revised. Additionally, during the review, anomalies or outliers were reviewed to ensure an accurate hierarchy. Recognizing the importance of the role and involvement of leadership, Navy



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00038 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.006

guidance stipulated that commanding officers certify that the position descriptions for their organizations were accurate and complete.

Air Force sent out classification guidance along with classification policy memoranda to commanders and the personnel community. The memoranda directed a full review of NSPS position descriptions to identify which were previously classified under the GS system and whose duties had not significantly changed. If no such position description was available, organizations were then mandated to use standardized position descriptions from the Air Force position description library, if available and appropriate. If still no position description was available, organizations were required to submit a new GS position description, which was classified by experienced classifiers using OPM classification standards and organizational structure charts to ensure the integrity of classification decisions.

Many of the Defense Agencies require supervisors to review and actively certify the accuracy of each position description for employees assigned to their organization. The supporting human resources (HR) specialists reviewed every NSPS position description and prepared a new, equivalent description under the GS system; and managers were required to certify accuracy or work with HR to revise position descriptions and resolve any discrepancies or issues.

In all of the Components, if after transition a supervisor sees that a job description does not accurately reflect the duties and responsibilities of the position, the supporting human resources staff advises that he or she can submit a new position description for classification and appropriate action. If an employee feels there is a discrepancy, information is available to the employee regarding the classification complaint and appeal process.



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00039 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.007

With roughly 170,000 NSPS employees rejoining 320,000 GS employees whose jobs were not under NSPS, we are mindful that government-wide GS pay and personnel system rules and standards must be applied equitably. Our transition reclassification effort is massive; however, managers are exercising accountability for their subordinates' assignments and transition position descriptions, and the HR staff is carrying out their classification and advisory roles with a high degree of professionalism. Due process mechanisms are in place to correct omissions and errors that supervisors or employees raise about individual situations.

**Safeguards to Protect Employees' Pay in the Transition Process**

The salary range of each of the 15 GS grades is divided into 10 steps, and in most instances movement between steps is based on employees meeting statutory waiting periods and performing at an acceptable level as defined in the applicable performance management system. Under GS rules, an employee's base salary must match one of the steps of the employee's GS grade unless the employee is on pay retention, which will be discussed later. Therefore, upon transition to the GS system, employees will be placed on GS steps at the same or closest higher rate to the NSPS salary. Some will transition from salaries that are between steps. In this case, pay will be set on the higher step, and the employee will receive a pay increase. If an employee's salary is less than step 1 of the GS grade, pay will be set on step 1, and the employee will receive a pay increase. Of the 53,057 employees that have been transitioned through the pay period that began on May 23, 2010, approximately 71 percent received a pay increase, with the average salary "bump" of $1,363 per year; and 8 percent remained at their same rate of pay because their salary matched a step within their new GS grade.



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00040 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.008

What about the other 21 percent? Some NSPS employees earn salaries that exceed the maximum rate for their position's GS grade. Section 1113(c)(1) of NDAA 2010 mandates that no employee suffer a loss of or decrease in pay upon transition from NSPS. Pay retention is a statutory entitlement under the GS system, and OPM implementing regulations provide DoD the essential tool needed to comply with the NDAA 2010 requirement. When the employee's NSPS adjusted salary exceeds step 10 of his or her GS grade, the employee must be placed on pay retention. In addition, the NDAA language gives added protection to transitioning NSPS employees whose salaries may be higher than what a GS employee can earn. Such employees will be authorized to retain a rate that at the time of transition to GS exceeds 150 percent of step 10 of the assigned grade. Some employees may retain a pay rate above Level IV of the Executive Schedule (EX-IV) (not to exceed 5 percent above EX-IV since this is the maximum rate for certain NSPS pay bands). Employees on temporary and term appointments retain their NSPS pay rates.

Pay retention is a valuable safeguard for NSPS transitions as well as for many other situations like reductions in force due to base realignments and closures. The governing statute and regulations insulate employees from a pay reduction and provide a mechanism to gradually bring the employees' pay into alignment with GS pay rates for their grade by means of smaller raises than the annual GS adjustment. Employees on pay retention are being paid at a higher rate than is applicable to the duties of the position they hold. For that reason, the pay retention law and regulation are designed to normalize their salaries over time by aligning their pay with the grade of the duties performed. When the rate range for a retained pay employee's position of record is adjusted, as it generally is in January for example, by law the employee on pay retention receives 50 percent of the increase in the maximum (step 10) rate of the highest



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00041 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.089

applicable rate range for the locality (i.e., combined base and locality pay or a special rate for the occupation) for the employee's position. In other words, pay retention protects the employee's current pay and limits pay increases. Each time a GS annual adjustment occurs, the employee's pay comes closer to being appropriate for the grade level of the work he or she performs. In gradual increments, the pay schedule is catching up to the employee's salary and, eventually, the salary can be set at step 10 of the GS pay rate. When that occurs, pay retention ends, and the employee will begin to receive the full government pay increase (GPI).

I would like to illustrate how pay retention works with an example. This is only one hypothetical. Every employee's situation will be different. Let's say that an NSPS pay band YA-2 employee in Dayton, Ohio, with a base and locality salary of $97,725 transitions out of NSPS in 2010 as a GS-12. Because her $97,725 salary exceeds Dayton's GS-12 step 10 rate of $91,080, the employee is placed on retained pay, and her retained rate is $6,645 higher per year than a GS-12 step 10. As the years pass, the employee continues to benefit from pay above step 10 of her grade, receiving 50 percent of the GPI each year until the rate for GS-12 step 10 is equal to or exceeds the employee's retained pay. At that point, pay would be set on an established step, and the entitlement to pay retention ends.

Building on the example above, let me substitute the historical pattern for Dayton, whose GS locality rates are near the average for DoD. Over the past five years, Dayton averaged annual increases of nearly 2.75 percent. If that were the increase from 2011 on, it would bring the 2011 GS-12 step 10 rate to $93,581. The retained pay rate is increased by one-half of the increase to the GS-12 step 10 rate, bringing the retained pay rate to $98,976, or $5,395 per year more than the step 10 rate. The gap would continue to decrease based on the historical 2.75 percentage average annual GPI. In this case, it would take 5 years until 2016 for the GS-12



ph44585 on D330-44585-7600 with DISTILLER
VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00042 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT
58031.010

step 10 salary to catch up to the retained rate. In those 5 years, the employee on pay retention would have received approximately $15,400 additional in salary. In addition, his or her retained rate is fully credited toward computing the retirement "high three" and other benefits, including Federal Employees' Group Life Insurance and Thrift Savings Plan. This statutory safeguard is designed to protect both the employee and the GS system by equalizing pay at a gradual rate.

In addition to the safeguards I've just discussed, OPM has been very responsive to our requests for relief for our employees in some other matters. For example, OPM authorized us to waive time-in-grade limitations for employees who are performing at a higher grade level under their NSPS pay band than they otherwise would be able to transition out at. OPM also responded favorably to our request for an exception to the time limits for temporary and term appointments, since the NSPS regulations provide for time-limited appointments that exceed time limits under the GS system.

The DoD Components and Transition Office are monitoring the effects on employees as a result of transition from NSPS. As of May 23, 2010, as I mentioned, 71 percent received pay increases, 8 percent transitioned at a GS step that matched their pay, and 21 percent were placed on pay retention because their salary exceeded step 10 of their assigned GS grade. The latter group is concentrated at the GS-12 and above levels, where many NSPS employees were advantaged by pay rate ranges that exceeded the rates for GS equivalent jobs. Recognizing the potential salary implications to the employee, Components are taking steps to mitigate the impact of pay retention. For example, Navy developed an information and education campaign to increase the awareness and understanding of the meaning of pay retention. Fact sheets were issued and disseminated across the Department; town halls and online presentation/chat/video sessions have been devoted to pay retention guidelines in order to address questions and



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00043 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.011

concerns. Additionally, those employees eligible for pay retention were provided letters outlining pay retention guidelines. Promotion opportunities are shared with the workforce and employees have been encouraged to explore and pursue higher-graded positions. The issue of pay retention also is addressed in the master communications package provided for commands and organizations to share guidance with leadership and the workforce.

**Educating Employees, Supervisors, and Management Officials on the Transition Process**

The NSPS Transition Office guides and oversees transition planning and execution. As the Director, I am responsible to develop, coordinate, and disseminate supporting procedures, policies, and tools; and to develop training products and services for the Components to educate employees, supervisors, and management officials on all aspects of NSPS transition. My staff, in consultation with the Components, has produced web-enabled training for supervisors on the GS classification system. They have prepared web-based training for supervisors and employees on performance management fundamentals to help sustain attention to good practices. They have issued transition guides available to the entire workforce and the human resources community so there can be common understanding of the transition, and of transition provisions for classification, pay setting, and staffing. My office has redesigned the NSPS website to publicize up-to-date information on the transition, including toolkits that contain a variety of products such as the transition guides, fact sheets, brochures, articles, frequently asked questions (FAQs), and the training modules on the GS system and performance management basics. The website and communications are updated regularly as new information becomes available and new products are developed.



ph44585 on D330-44585-7600 with DISTILLER
VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00044 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT
58031.012

DoD Components all have robust communications campaigns in preparation for transition from NSPS to GS. They use internal, workforce websites as a repository for transition-related information, e-mail boxes for employees to submit questions/concerns, news bulletins, articles on transition in agency publications, their own tailored FAQs, and links to the Transition Office website. They employ town hall meetings for the workforce, commanders' calls with their leadership teams, leadership and workforce briefings, and video teleconferences. I have personally accepted invitations to speak on NSPS transition at several workforce functions around the country over the past three months. Some organizations are providing individual counseling to employees with concerns. All are working with management to ensure employees are informed by local officials of their position classification under the non-NSPS personnel system prior to their transition, and all report that employees are being told about available training and encouraged to ask questions of their supervisors and local human resources office. The workforce is being encouraged to refresh their knowledge about the GS system through the available training; and in some agencies, those who have not worked under the system are required to take the training.

As you may know, the Department did not convert bargaining unit employees into NSPS. However, some employees under NSPS exercised their rights and organized into bargaining units represented by labor organizations. As a result, 27 bargaining units were formed covering 913 NSPS bargaining unit employees.

Our transition requirements and the law required organizations to give appropriate advance notice and an opportunity to bargain to those unions representing NSPS bargaining unit employees. In some cases, unions simply requested some information on transition issues and did not seek negotiations. In other cases, requests to bargain were received and management is



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00045 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.013

honoring its collective bargaining obligations. As of this date, half of the bargaining unit employees have transitioned from NSPS.

**PROGRESS ON THE NEW PERFORMANCE MANAGEMENT SYSTEM AND HIRING PROCESS**

Fulfilling the NDAA's provisions for developing and implementing a new, DoD-wide performance management system and hiring process requires full engagement between management, the workforce, unions, and others with vested interest, like OPM. The process for engagement is crucial to the outcomes, and I have concentrated on establishing mechanisms to bring ideas and issues to the forefront from all major parties. I have hired key staff and assembled detailees from the Components to research and assemble information on current/past private and public initiatives on performance management and hiring improvements. I have established a Senior Advisory Group with DoD Components to surface management views and mission needs. I regularly meet with the overarching team responsible for Department-wide policy direction on NSPS transition, many of whom also have policy responsibility related to successor systems and processes. I have met with OPM Director Berry to ensure DoD is in alignment with government-wide civil service reform. DoD and OPM will be working closely together on the DoD personnel authorities provided for in section 1113 of NDAA 2010.

The Department is fully committed to meeting its obligations to ensure labor organization involvement in the design and implementation of our new personnel authorities. We have a strong desire to build an effective relationship and fully participative process with labor organizations in developing these new authorities.

The Department has held two preliminary meetings with labor organizations to discuss a way forward on designing a new performance management system and hiring process. These



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00046 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.014

discussions have been quite productive in establishing a shared understanding of how labor will be involved in the design and implementation. One significant result of these meetings is our work with labor in designing a conference where management and labor attendees will come together and begin a series of open and structured discussions to gather different views regarding options for the new authorities. We believe all employees will benefit from management and labor working together in a collaborative and open manner on these initiatives.

I envision diverse teams comprised of supervisors, managers, employees, unions, OPM, and other interested parties to design the new DoD performance management system and hiring process. It is my intent that the design process be transparent and that employees and other interested parties be kept informed about the development and deployment of the new programs. I also expect that training will be developed concurrently with the design of the new authorities and made available to all.

The Department will report to Congress on its plans for the DoD-wide performance management system and re-described hiring procedures in the fall, as mandated by NDAA 2010. We will also continue to work with OPM on government-wide civil service reform.

**CLOSING**

The Department is committed to open, ongoing communications about NSPS transition and development of the DoD-unique performance management and hiring authorities provided in NDAA 2010.

Thank you for your ongoing support of our DoD civilian workforce, and for providing me this opportunity to share with you our experiences as we implement the repeal of NSPS and undertake to design the NDAA 2010 personnel authorities. I welcome your questions.



ph44585 on D330-44585-7600 with DISTILLER
VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00047 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT
58031.015

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

STATEMENT OF
CHARLES D. GRIMES III
DEPUTY ASSOCIATE DIRECTOR FOR EMPLOYEE SERVICES
U.S. OFFICE OF PERSONNEL MANAGEMENT

before the

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANGEMENT, THE FEDERAL WORKFORCE AND THE DISTRICT OF COLUMBIA
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

on

THE NATIONAL SECURITY PERSONNEL SYSTEM REPEAL AND PERFORMANCE MANAGEMENT IN THE FEDERAL GOVERNMENT

June 9, 2010

Chairman Akaka, Ranking Member Voinovich, and Members of the Subcommittee:

On behalf of the Office of Personnel Management (OPM), thank you for the opportunity to participate in this hearing to examine the transitioning of employees from the National Security Personnel System (NSPS) back into the General Schedule classification and pay system, as well as performance management in the Federal Government.

As you know, the National Defense Authorization Act (NDAA) for FY 2010 repealed NSPS and required that employees covered by that system be moved back to their former personnel systems by January 1, 2012. For most employees, this means they will be returned to the General Schedule classification and pay system. This transition is proceeding on schedule; the Department of Defense (DOD) has said that it expects around 75 percent of NSPS employees will be back under the General Schedule by the end of the current fiscal year.

I will let DOD describe its own efforts to educate employees about the transition. I know they have created a website especially dedicated to this effort, which includes a Transition Guide and Frequently Asked Questions, among other tools. I believe these have helped employees understand what they should expect to happen as a result of the repeal of NSPS.

You asked me specifically to discuss pay retention and position classification after the transition. When employees are moved back into the General Schedule (GS) from NSPS, DOD will classify



ph44585 on D330-44585-7600 with DISTILLER
VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00048 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT
58031.016

all positions in accordance with classification standards and guidance issued by OPM. The Department will apply the same criteria in classifying the positions of transitioning NSPS employees that agencies use when classifying any Federal job, whether it is being filled by an employee who is new to the Government or by someone who is transferring from another agency, or from a different pay system with pay bands or other features that differ from the GS system.

For example, each NSPS position in a band that encompasses GS-9, GS-11, GS-12, and GS-13 work must be evaluated against OPM standards and guidance to determine which grade is appropriate, based on the duties, responsibilities, and qualification requirements. Also, jobs within new occupational series which DOD, in coordination with OPM, established uniquely for NSPS, will be placed into their appropriate GS occupations as those positions are converted back to the General Schedule.

Let me elaborate very briefly on what OPM's position classification standards provide and how agencies apply them. The classification standards for GS positions provide information agencies use in determining the occupational series, title, and grade level for all positions performing white collar work in the Federal Government. Classification standards typically describe the kind of work covered by the standard and include background information, such as examples of the kinds of assignments that are common to the occupation. The standards also provide official job titles and criteria for determining appropriate grade levels.

While OPM's classification standards are designed to provide consistency in the way work is classified across the Government, they are not intended to eliminate the need for judgment. Rather, the standards aim to provide a structure that facilitates consistent classification across Federal agencies and occupations. Individual contributions within a job may affect its classification over time. It is possible, for example, that some transitioning employees will return to GS positions that will be classified at a higher grade level than the positions they held before becoming covered by NSPS because the positions now require more knowledge, more complex work, or less supervision, or because of similar changes that occurred over time as the employee grew within the position. These kinds of factors are routinely taken into account in classifying Federal jobs. However, we do not expect this to result in significant increases in grade levels for the majority of employees transitioning back from NSPS.

At the same time, we recognize that there are many employees who earned salaries under NSPS that substantially exceed what they would be receiving had they remained under the General Schedule and never been covered by NSPS. In some cases, this is attributable to the fact that some NSPS pay ranges are 5 percent higher than corresponding GS ranges. Also, NSPS created broad bands that encompassed multiple grades, which allowed some employees to reach pay levels beyond that for the GS grade level that would normally be assigned. The law that terminated NSPS provides that no employee will suffer any loss or decrease in pay when converted out of NSPS. That provision protects the rate of basic pay in effect immediately before an employee is converted out of NSPS. Chapter 53 of title 5 of the United States Code provides a mechanism for employees in such circumstances to avoid experiencing the decrease in their pay that would otherwise occur when they move back to the GS system, but it will not guarantee them that their pay will necessarily increase at the same rate it would have increased had they remained in NSPS.



ph44585 on D330-44585-7600 with DISTILLER
VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00049 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT
58031.017

Under the law, when NSPS employees are placed in positions for which the maximum rate of pay is lower than their NSPS salary, they will continue to receive their NSPS salary. However, when GS pay rates are adjusted each January, employees receiving retained pay will receive 50 percent of the increase in the maximum rate of basic pay for their grade until that rate of pay rises to meet or exceed their retained rate of pay. At that point, they will be placed in the highest step (step 10) of their grade and will begin receiving 100 percent of each annual general increase in GS pay rates. The entitlement to retained pay eases these employees' transition back to the General Schedule and ensures that they will not experience a precipitous drop in pay when they return to the General Schedule system.

It is important to note that employees in this situation are receiving higher pay – and will continue to do so – than they would have received if they had remained in the General Schedule pay system all along. If they had remained in the GS system, their pay never would have exceeded the regular maximum rate for step 10 of their GS grade. They benefited from being in NSPS, and that benefit continues through the retained rate they receive upon conversion back to the GS. Also, their future retirement benefit will be the same as or higher than it would have been if they had not been covered by NSPS, depending on whether the average salary used in the retirement computation was earned while they were in NSPS or receiving retained pay. Moreover, agency contributions under the Thrift Savings Plan are higher for these employees than they would have been had the employees never been in NSPS.

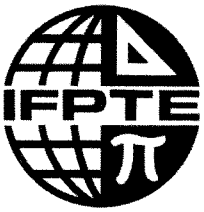
Meanwhile, Mr. Chairman, as you noted in your invitation to this hearing, the NDAA also provided the Department of Defense with certain personnel flexibilities. In particular, you asked us to comment on the implementation of the authority for the Secretary, in coordination with the Director of OPM, to issue regulations waiving most of the requirements of title 5 of the United States Code that deal with performance management and to design a new performance appraisal system for the Department. The same section of the Act also provided a similar authority for the Department to redesign its hiring procedures, in coordination with OPM. Although DOD has not yet approached OPM about a proposal for how this authority might be exercised, we have worked closely with DOD, among other agencies, in developing our Governmentwide hiring reform initiative, which was recently launched by the President. We at OPM are very grateful for DOD's participation in helping identify and implement needed changes in the hiring process. We believe, when they are fully implemented, these changes will greatly enhance the hiring process from the perspective of both the job applicant and the hiring agency, and we are excited about how much we expect these changes to assist DOD and the Government as a whole in efficiently placing the right person in the right job at the right time.

Finally, Mr. Chairman, you also asked about our plans for changes to the Government's performance management system. Director Berry has been talking with various stakeholders and gathering their feedback on different approaches to Governmentwide performance management reform. However, we have not yet formulated any specific plans in this regard, so it would be premature for me to discuss any particular proposal at this time.

Thank you again for the opportunity to discuss these matters with you. I would be happy to respond to any questions you may have.



ph44585 on D330-44585-7600 with DISTILLER
VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00050 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT
58031.018




INTERNATIONAL FEDERATION OF PROFESSIONAL
AND TECHNICAL ENGINEERS,
(IFPTE), AFL-CIO & CLC

---

# Testimony of
# Gregory J. Junemann,
# President

# International Federation of Professional & Technical Engineers (IFPTE), AFL-CIO & CLC

*Prepared For:*

**Senate Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia**

**Hearing:**
***"The National Security Personnel System and Performance Management in the Federal Government"***

**Wednesday, June 9, 2010 – 2:30**
**342 Dirksen Senate Office Building**

---

ph44585 on D330-44585-7600 with DISTILLER

**Testimony of Gregory J. Junemann, President**
**International Federation of Professional and Technical Engineers, AFL-CIO, CLC**

Good afternoon. I am Gregory Junemann, President of the International Federation of Professional and Technical Engineers. I would like to thank Chairman Akaka, Ranking Member Voinovich, and members of the Subcommittee for the invitation to testify today.

I would like to also extend a personal note of appreciation to Chairman Akaka and his Subcommittee staff. As a union representing tens of thousands of federal workers, including federal workers represented by IFPTE Local 121 at the Pearl Harbor Naval Shipyard, IFPTE commends the Chairman for his long standing support for the members of IFPTE Local 121. Chairman Akaka is a champion for our nation's civil servants, who strive to meet the needs of the taxpayers everyday.

The issues that will be discussed here today are critical to examining where our Department of Defense (DOD) workforce has been over the past several years under the now discredited National Security Personnel System (NSPS), where we are today with respect to the transition from NSPS back to the General Schedule (GS), and the possibility of moving forward with a government-wide performance management system.

IFPTE represents over 90,000 highly skilled professional and technical workers in the private, federal, and public sectors throughout the United States and Canada. With respect to our federal membership, IFPTE represents employees at DOD, the Department of Interior (DOI), the Department of Energy (DOE), the National Aeronautics and Space Administration (NASA), the National Oceanographic and Atmospheric Administration (NOAA), the Environmental Protection Agency (EPA), the Government Accountability Office (GAO), the Congressional Research Service (CRS), the Pension Benefit Guarantee Corporation (PBGC), the Executive Office of Immigration Review, the Tennessee Valley Authority (TVA), and Administrative Law Judges at the Social Security Administration.

Today's hearing focuses on three very critical concerns facing our federal workforce. The first item centers on the transition of most of the 219,000 DOD workers under NSPS back to the GS system, and how that transition impacts pay. The other two items deal with, (1) The authorities included within the Fiscal Year 2010 (FY10) Defense Authorization bill (the same bill that included the NSPS repeal) that allow the DOD certain flexibilities for moving forward with a performance management system, and (2) The efforts by the Obama Administration's Office of Personnel Management (OPM) and the Office of Management and Budget (OMB) to create a government-wide performance management system that could eventually impact most Executive Branch workers.

My testimony will first take a look at the NSPS transition, followed by IFPTE's views on performance management, and hiring/retention.



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00052 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.020

## I. Transition from the National Security Personnel System to the General Schedule

With last year's passage of HR 2647 (Public Law: 111-84), the Fiscal Year 2010 National Defense Authorization Act (NDAA), came several key provisions that impacted federal workers. It is important to mention that IFPTE applauds the workforce provisions included in that bill, including allowing federal workers to allocate unused sick leave toward their Thrift Savings Plan (TSP). However, the highlight of the bill for IFPTE was the major legislative goal that our union, and most other unions representing DOD workers, had been pursuing since 2003, and one that is a subject of today's hearing – the repeal of NSPS. Needless to say, the rejection of NSPS was long overdue and IFPTE applauds every member of Congress who had a role in its repeal, including Chairman Akaka who recognized from the start that NSPS would be a failed personnel system.

NSPS is key to today's broader message because IFPTE believes that it is reflective of a 'lesson learned' as we consider the question of moving forward with comprehensive performance management in the federal government. IFPTE continues to be very skeptical of 'pay for performance' schemes because they have overwhelmingly proven to be unfair to the workers that we represent. While the concept sounds nice, once you open the cover of this book and read what's inside you will quickly learn that these pay systems leave a lot to be desired. NSPS is a perfect example of that.

Setting aside the many major flaws of NSPS and focusing just on the pay and performance evaluations part of the failed personnel system, data and studies showed NSPS to be, among other things, a discriminatory pay system. While IFPTE does not believe that this was done intentially, NSPS data itself proves that its very pay scheme negatively impacted minorities. White workers overall got higher pay raises than racial and ethnic minorites. The pay data also suggests that workers at the higher end of the pay scale, or those with plum assignments, benefited under NSPS, while most others lost out. For example, those working in higher commands, or at the Pentagon received higher ratings and pay than their counterparts in less visable locations.

In addition, a 2005 Defense Business Board report warned Congress and DOD management that it was not uncommon in federal pay for performance systems for workers at the higher end of the pay scale to benefit while those at the lower end of the pay ladder suffered losses. Here again, the DOD's own investigation showed that NSPS also failed to avoid this particular pitfall. The DOD study, which was released by SRA International in May of last year, showed that workers earning $60,000 or less, compared to those earning $100,000 plus, were essentially subsidizing the generous pay increases for their already higher paid counterparts. It is no surprise that the lower paid workers would have made out far better if they had just remained in the General Schedule (GS) pay system.

These findings were not a revelation to IFPTE. Our union, in partnership with the 35 other unions that made up the United DOD Workers Coalition (UDWC), predicted as much. This is exactly why we worked so hard, and for so long, to protect our respective memberships from entering NSPS, and eventually for the complete repeal of NSPS.



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00053 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.021

Now that Congress has repealed NSPS, hundreds of thousands of workers are faced with the transition back to the GS. It should be noted that just about every worker moved into NSPS was non-represented. In other words, with the exception of just over 900 workers out of 219,000, everyone else working under NSPS is not represented by a union. So, while IFPTE and our sister unions of the UDWC were successful in protecting our respective members from NSPS, some of us do represent a handful of workers who formed a union after going under this pay system. Of the over 900 workers under NSPS that are represented by a union, IFPTE represents ninety-four.

To lead this transition, and in an apparent effort to change the controversial culture at DOD with respect to NSPS, this past January the department announced the appointment of John James to head the transition from NSPS to GS. IFPTE believes that Mr. James' appointment was a step in the right direction. He has a long career in the federal government, mostly with the Navy. Not only has his work garnered praise from the rank and file, he is a person who has displayed a willingness to work with labor in a good faith way. This is obviously a far cry from the DOD management culture that IFPTE and other unions experienced over the previous eight years. His most recent position was the head of logistics, maintenance and industrial operations at the Naval Sea Systems Command (NAVSEA). As a union that stresses the importance of diversity in the workplace, particularly when it comes to highly technical jobs, IFPTE is especially pleased with Mr. James' work on increasing diversity within the Navy through outreach to colleges and high schools, including historically black colleges and universities (HBCUs). While IFPTE will continue to be vigilant and aggressive in working on behalf of our membership, both through this transition and with respect to a potential new effort to create a DOD specific performance management system, we do believe that Mr. James presence in leading this effort will prove to be a huge improvement.

One of the more complicated tasks before John James and his team is to ensure that no worker loses pay as a result of the transition from NSPS back to GS. Along with the repeal of NSPS came the requirement that no worker suffers a loss in pay through the transition. IFPTE certainly agrees with this requirement, but it does present the difficult task of figuring out how to accomplish this. This is especially complicated for those workers whose last salary was more than they would be paid at the step 10 level of their grade under the GS system. Of course these workers will have to go back into their GS grade level, meaning that in a few cases their pay will exceed the prescribed pay for the $10^{th}$ step in that grade. The DOD has proposed pay retention as a way to meet the congressional requirement. This means that impacted workers moving to GS will keep the salary they got under NSPS. However, until their GS pay scale catches up with their higher pay they will get half of the annual across the board adjustment, locality pay and special pay rates compared to every other federal worker. In other words, their salaries will grow slower than their colleagues.

Overall, IFPTE understands the rationale behind the DOD proposal to bring things back to an equal playing ground. The following scenario, without pay retention, explains our reasoning:



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00054 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.022

*A manager who made out well under NSPS is permitted to get full raises in the out years. This could cause harm to a federal worker represented by IFPTE, for example, if he/she were to eventually be promoted to a supervisory position. That employee, who was protected from NSPS by their union, will always be paid less for the same work as the supervisor who is getting full pay raises on top of the NSPS bumps they received.*

Keep in mind, a lot of the NSPS bonus money came from bonus money that was supposed to be used for an agency or command. So, some of the bonus money that was intended for federal workers not under NSPS (i.e. – workers in a collective bargaining unit) was put into NSPS pay pools that IFPTE and other federal workers represented by unions could not benefit from. So, here again, we understand why the DOD proposed retained pay as a part of the transition.

However, there still remains a glaring flaw with pay retention. Workers put under retained pay have the potential of receiving lower raises indefinitely. There will likely be some circumstances where the top step of a GS salary in a particular grade may never catch up. Given this, IFPTE would recommend that another approach be considered.

Instead of retained pay, IFPTE would ask that a proposal to create two additional steps within grade - steps 11 and 12, with corresponding pay raises for each GS grade be considered. DOD could make the length in time to reach these steps 5 years (260 weeks) with sustained performance in each of those years to reach the Holy Grail of step 11 and subsequently step 12. This idea would benefit everyone, not just primarily the management employees who benefited from NSPS. It would also allow those few rank and file workers who got big raises under NSPS to move into a step on the GS scale so they could get their full raises in the out years.

The important thing to remember is some concessions given by the DOD or Congress to past NSPS workers will primarily benefit non-bargaining unit workers, potentially indirectly harming bargaining unit members because they will not benefit from it. IFPTE asks that the Congress and the DOD not only be aware of this type of scenario, but also be sure to avoid it. IFPTE, along with the other unions of the UDWC, worked aggressively in Congress and through the courts to shield our members from this misguided pay system and it would be disappointing to see union members be adversely impacted once NSPS is finally a thing of the past. It would be an unfortunate irony, to say the least.

**II. DOD, OPM/OMB Efforts to Design a new Performance Management and Hiring System for federal workers in Executive Branch agencies.**

*Overview – The Potential for Performance Management in the Federal Government:*

When it comes to comprehensive personnel management and hiring reform throughout the federal government, IFPTE, which is one of the 22 member unions comprising the Federal Workers Alliance (FWA), has been working hand in hand with the FWA in creating our single vision for personnel reform in the federal government. While the FWA has yet to put forward formal ideas, our new coalition does have a broad outline of concepts that will be the basis for a more comprehensive and detailed document we will provide to Congress and the Obama



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00055 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.023

Administration at a later date. Having said that, and for this part of our testimony, IFPTE will provide the Subcommittee with our specific union's long held views on the subject of performance management in the federal government, with the caveat that the FWA will be providing this Subcommittee and the Obama Administration with a more comprehensive proposal in the near future.

Before getting into IFPTE's view on this matter, it is important to recognize that Section 1113 of the FY10 NDAA has given the DOD the authority to work on personnel and hiring reforms of their own, separate and apart from what OPM and OMB may do with other Executive Branch agencies. Granted, this authority requires the DOD to work with OPM and labor, but it also allows the DOD to move forward separate from whatever OPM may do. Included in these flexibilities were certain requirements and expectations of management. Among them was the requirement that the DOD work hand in hand with not only OPM, but also with labor. In other words Senate Armed Services Committee Chairman Levin and House Armed Services Committee Chairman Skelton wanted to ensure that the dog and pony show that was NSPS remain a thing of the past. Thankfully, Chairmen Skelton and Levin have made it clear that if DOD decides to move forward, they need to do so with labor as an equal partner. IFPTE also believes that in addition to creating a system with labor as a partner, the expectation is that any new performance management system makes full use of the flexibilities already inherent within the GS system. This last point is directly aligned with IFPTE's position moving forward.

Similarly, OPM and OMB have also indicated that they intend to move forward on a performance management system that will impact just about every executive branch agency in the federal government. While there are little to few details of a potential OPM/OMB proposal that IFPTE has been made a privy to, we have received assurances from OPM Director, John Berry, that labor, including IFPTE, will be an equal partner in any attempt to develop a new performance management system impacting federal workers. Our union applauds Director Berry for his interest in involving labor. Director Berry's long record of support for our federal workforce leads our union to believe that any larger effort by OPM will be done properly and with labor as an equal partner.

Admittedly, IFPTE remains eager to learn the logistics of how all of this will play out. Will DOD simply defer to OPM and OMB, or will they move forward on their own? Regardless of how this takes shape, there are three procedural items that IFPTE will stand firm on: (1) The people across the table representing management are working with us in good faith; (2) The people across the table representing management are the real decision makers and can actually sign off on agreements in real time; and, (3) Labor is involved in the process and planning from the very start. If these three fundamental requirements are not met it will be difficult to achieve success.

Make no mistake though, workforce reform in the federal government will be a great challenge. This is true whether we have a President who appreciates workers, as we do now, or whether we have a President whose goal is to gut the federal workforce, as we have had in the recent past. If there is to be success, it will require serious and thoughtful effort from all sides. IFPTE, for our part, is willing to roll up our sleeves and work with the Obama Administration to bring about positive change in the federal government that is good for both the taxpayers and our workforce.



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00056 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.024

*IFPTE's Views on Performance Management, Hiring & Retention, and Training*

IFPTE members have seen enough failed pay for performance systems in the federal government to realize that in order for a pay system to have the buy in of the workers, avoid the pitfalls of discrimination and non-transparency, and be effective, it has to be clearly spelled out by legal statute. The only other way you can achieve a fair personnel and pay system is if it were bargained so that the employees themselves are involved in the design. This is true whether it be at the DOD only, or throughout the federal government as a whole. Outside of bargaining a new performance management system, IFPTE believes that a fair and comprehensive performance management system can be achieved through the existing flexibilities provided in the GS system. The GS system has all the elements to achieve a system that can reward good performers, penalize poor performers, and provide the flexibility necessary to hire and fire. IFPTE also believes that in order to address the hiring and retention problems facing the federal government that Congress must act on legislation that creates an environment where people look forward to spending a career as a civil servant.

The GS pay system has stood the test of time and remains the best system for the federal government. First and foremost, it is transparent, flexible and easy to understand. You do not have to be a rocket scientist to figure it out, unlike the NSPS pay banding scheme. The question is, 'is the GS system flexible enough to accommodate a healthy performance management program?' If used properly, IFPTE believes that the answer is, 'yes'.

There are obvious GS system flexibilities that will allow for a performance management system, including rewarding high performers. Quality step increases, within-grade step increases and performance bonuses are three that immediately come to mind. However, there are several others. IFPTE believes that the following authorities that already exist in the GS system are a good foundation for a performance management system in the federal government:

- Step Increases and Performance Awards – Both GS and Wage Grade (WG) systems allow for rewards for good performers in the federal sector. The problem with step increases now though is that they are not used enough by management, and when they are they take too long. For example, step increases in the GS system take between one and three years, delaying advancement opportunities and resulting in difficulties in retaining good employees. Further, although performance awards for high performers are possible, those awards often go overwhelming to management or vary widely, even within the same agency for the same ratings. IFPTE believes that any performance management system should take advantage of the flexibility to reward good performers through step increases, as well as the proper use of performance awards. However, there need to be caps on performance award monies to management and consistency to the process used to distribute the awards. The timeframe for step increases also needs to be shortened;
- Merit Promotion – This is about as transparent and public a promotion process that federal managers have at their disposal to reward stellar workers. It allows for promotions to other jobs in a higher grade. Since these jobs are competitively listed the person that is eventually hired for the job is an example to others of what can be achieved through excellent performance;



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00057 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.025

- Career Ladder Program – This is as close to pay banding as you can get under the GS system, except that is transparent, fair and the criteria for advancement is very clear to both the employee and the manager. This program will permit a worker to advance from one grade to another. For example, if a worker is hired for a career ladder position and achieves all the performance standards in one grade, they can accelerate to the next grade. If they achieve the next set of standards, they can move on to the next higher grade, and so on....This program gives workers very clear and concise incentives to work hard and advance.

*Legislation and Existing Flexibilities for Hiring/Retention, and Training*

In order for management to be properly prepared to operate under a performance management system within the GS, there needs to be proper management training. Also, to address the hiring and retention needs of federal agencies, IFPTE believes that Congress can play a huge role by enacting the following legislative proposals:

- Training – Congress should pass S. 647, the Federal Supervisor Training Act, to provide sufficient resources for manager training. Such resources can be dedicated to help train managers as to the proper use of the GS system as a basis for a performance management system.
- Streamline hiring – Hiring currently takes far too long in the federal sector, and also carries the burden of an outdated system that makes poor use of available resources. IFPTE recommends passage of S. 736 or a similar initiative to shorten the hiring process, provide status updates to applicants, and make job descriptions more concise and straightforward. IFPTE also supports OPM's recent changes to the hiring process that, among other things, does away with the burdensome Knowledge, Skills and Abilities (KSAs) requirement for job applicants.
- Special Pay Rates – Which can be used for geographic areas and specific jobs that present recruiting and retention challenges;
- Provide automatic parity between civilian and military pay raises – Although President Obama called for parity in his FY 11 budget for civilian and military across the board adjustments, and Congress often links the two, this parity is not automatic. IFPTE recommends that Congress adopt legislation to permanently link military and civilian pay increases.
- Provide greater collective bargaining flexibility to give workers more of a voice in their workplace – Current law prohibits labor organizations from bargaining or grieving certain issues. These restrictions limit the rights of workers to have full protections under the law. IFPTE recommends that Congress allow for more bargaining flexibility by eliminating or reforming provisions in 5 U.S.C. § 7106 to put workers on a more even footing with managers to have a say in issues such as the agency's mission and budget, assignments of work, and the filling of positions, among other things. Also, change the law to allow grievances on broader subjects, such as classifications under 5 U.S.C. § 7121 (c)(5).



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00058 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.026

- Encourage incentives for recruitment and retention for hard-to-fill positions – Positions at some federal workplaces are hard to fill because of recruitment or retention problems. Incentive payments can assist with recruitment and retention. These incentive payments for bargaining unit employees should be negotiable.
- Make the federal government more family-friendly – Although current law (40 U.S.C. § 590) gives federal agencies the authority to establish child care centers for federal families, only about 8,000 children of federal employees are receiving this benefit at only 110 facilities. Much more can and should be done to ensure that all federal employees have access to child care at or near their workplace. Further, federal employees currently receive no dedicated leave time for the birth or adoption of a child. The federal government should reform current policies to be a model family-friendly employer. IFPTE recommends that agencies commit sufficient resources to provide greater access to child care for federal employees, including those outside the Washington, DC metropolitan area, and recommends passage of S. 354 or H.R. 626 to provide four weeks' paid family leave for federal employees.
- Domestic Partner Benefits – When it comes to recognizing domestic partner benefits, the federal government is far behind the private sector. If the federal government wants to continue to compete with the private sector for the best talent, and retain their current highly talented workforce, then Congress should adopt S. 1102 or HR 2517, both identical bills, to extend the same retirement benefits, long-term care, health care benefits, family and medical leave, and all other accommodations afforded to federal workers in traditional marriages to those in domestic partnerships or same-sex marriages.

*Poor Performers*

IFPTE does recognize that there is a belief that federal workers somehow just show up to work and collect a paycheck without much effort. This kind of misguided perception began during the Reagan years when President Reagan not only fired all of our Air Traffic Controllers, but also villified government as "the problem". Since then civil service workers have borne the brunt of this slander and have been scapegoated for many of the country's ills.

The fact is that poor performers in the federal government are far and few between. Our federal workers put in maximum effort day in and day out over long careers to serve the American public. Indeed, the members represented by IFPTE, many of who are Veterans, take pride in being able to serve the nation through the civil service.

Are there some poor performers in the federal government, just as there are anywhere else? Sure. Should they be disciplined if they do not properly perform their jobs? Absolutely. However, IFPTE feels very strongly that the overwhelming majority of dedicated federal workers should not suffer as a result of a few bad apples. Fortunately, there are ways to deal with poor performers in the federal government.

There remains the misguided perception that the government cannot fire poor performing workers. IFPTE disagrees. There are processes in place that allow management to fire workers. There are also processes in place that allow an underperforming worker to improve. It is incumbant on both management and the union to ensure that an underperforming worker get the resources and training necessary to properly perform their job. The truth is that management



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00059 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.027

often times simply ignores the problem, or is instructed by their human resources superiors from taking action to allow a low performer an opportunity to improve.

There is also the ability for a manager to take appropriate action to discipline poor performers. For example, if a worker who is not performing is due for a step increase, a manager can refuse the increase by filling out the proper paperwork. However, that rarely, if ever happens. The point is that management can discipline and fire poor performers.

With respect to the appraisal process for rating employees, OPM Director Berry has shared some ideas with IFPTE to simplify the way workers are rated. Director Berry has indicated that he would like to categorize workers into three categories. The employees would be rated as superstars, in good standing, or not performing at an acceptable level. IFPTE agrees with Director Berry that a streamlined and simplified rating system of this sort is needed. Like most other things, the devil is in the details. As long as OPM works in conjunction with labor in creating such a system, as well streamlining a transparant and fair process for adverse actions and appels, IFPTE believes a positive outcome can be achieved.

This concludes my testimony. Thank you again for the opportunity to be here today.



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00060 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.028




Testimony
Before the United States Senate
Committee on Homeland Security and Governmental Affairs
Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia
June 9, 2010

The National Security Personnel System and Performance Management in the Federal Government

# NSPS: Lessons Learned and Opportunities for Moving Forward

**Testimony of**
**Patricia Niehaus**
**National President**
**Federal Managers Association**

1641 Prince Street ■ Alexandria VA 22314-2818 ■ Tel: (703) 683-8700 ■ Fax: (703) 683-8707
■ E-mail: info@fedmanagers.org ■ Web: www.fedmanagers.org

ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00061 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.029

Chairman Akaka, Ranking Member Voinovich and Members of the Senate Homeland Security and Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia:

My name is Patricia Niehaus and I am here today representing the over 200,000 managers, supervisors and executives in the federal government on behalf of the Federal Managers Association (FMA). Please allow me to take a moment and thank you for the opportunity to present our views before the Subcommittee. As federal managers, we are committed to carrying out the mission of our agencies in the most efficient and cost effective manner while providing necessary services to millions of Americans.

In March of this year, I was elected to serve as the National President of the Federal Managers Association. During my career with FMA, I have held several positions, including Chapter trustee, Chapter Vice President, Chapter President and Zone Vice President. In my professional life, I am the Labor Relations Officer for the Travis Air Force Base (AFB) in California. I have completed 27 years of federal service in the Department of the Air Force, the last 24 of which were in the human resources field. I began my tenure as a GS-04 Secretary and worked my way up to my present position in the Civilian Personnel Office. During my career, I have spent time in the General Schedule (GS) and now the National Security Personnel System (NSPS), and have worked with managers under four separate pay systems – the Federal Wage Grade (FWS), the General Schedule, the now-defunct General Manager (GM) system, and the National Security Personnel System - to provide advice and guidance on personnel management issues. Over the past four years, I have been involved with NSPS as a member of the NSPS Implementation Team for Travis AFB as a trainer, a pay pool facilitator and as an employee rated under this system. Please keep in mind that I am here on my own time and of my own volition representing the views of FMA and do not speak on behalf of the Air Force.

Established in 1913, the Federal Managers Association is the largest and oldest association of managers and supervisors in the federal government. FMA was originally organized to represent the interests of civil service managers and supervisors in the Department of Defense (DOD) and has since branched out to include nearly forty different federal departments and agencies. We are a nonprofit, professional, membership-based organization dedicated to advocating excellence in public service and committed to ensuring an efficient and effective federal government. As stakeholders in the successful transition out of the National Security Personnel System, we appreciate the opportunity to appear before you today.

The face of America's workforce is changing. A model once attractive for employing the most talented members of the workforce, the federal civil service now appears unreflective of new job seekers' expectations by today's standards. The current General Schedule pay system and performance review methods are antiquated. We at FMA support any changes that establish increased flexibilities, accountability and performance results. NSPS promised to deliver on these personnel components, but ultimately failed to live up to its billing.

The Department of Defense is the largest employer of federal civilian employees, with nearly 700,000 of the 1.8 million-member workforce under its purview. Approximately 226,000 DOD



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00062 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.030

employees, consisting primarily of managers and supervisors, began fiscal year 2010 under NSPS. Since that time, nearly 22,000 employees have returned to the General Schedule following the pay-for-performance system's repeal. This hearing marks the eighth time FMA has appeared before Congress to discuss NSPS since the regulations were first proposed.

## BACKGROUND

Passage of the Fiscal Year 2004 National Defense Authorization Act (P.L. 108-136) granted the Department of Defense the authority to embark on an historic implementation of a new personnel system positioned to change the face of the federal workforce. Included in the legislation was the authorization for major changes to the pay, hiring and staffing, labor relations, collective bargaining, adverse actions, appeals process, reductions-in-force, and performance review systems governed by Title 5 of the U.S. Code. Justification for reform was based on the critical and urgent need to create a flexible and dynamic human resources system that would allow Pentagon employees to respond quickly to any threats to our national security and prevent any military actions that would harm the United States. While this justification has come under fire, we agree that our national security needs and protecting America's infrastructure, citizens and interests around the globe require our undivided attention.

Under NSPS, an employee's pay raise, promotion, demotion or dismissal was far more uninhibited than current General Schedule rules permit. We support the premise of holding federal employees accountable for performing their jobs effectively and efficiently and rewarding them accordingly. More specifically, the removal of a pass/fail performance rating system embodied by the General Schedule that does not allow for meaningful distinction of productivity was a step in the right direction.

The final regulations governing NSPS were released in October 2005 and went into effect 30 days later. Initially, 65,000 new employees were set to enter the system in January 2006. At the time, FMA cautioned against such an ambitious roll out to ensure adequate time for training was allotted. As such, civilian employees were first converted to NSPS in April 2006 under Spiral 1.1. Over the last four years, implementation plans slowed considerably, exacerbated by Congress' mandate to exclude Wage Grade employees and the Pentagon's decision not to enroll collective bargaining unit employees.

The mission-critical nature and sheer size of the Pentagon made the success of the new personnel system's development and implementation vital. Initially, we at FMA were optimistic NSPS would help bring together the mission and goals of the Department with the on-the-ground functions of the homeland security workforce. However, the promise NSPS held never came to fruition, and following pressure from stakeholders, Congress repealed NSPS in the FY10 National Defense Authorization Act (P.L.111-84).

## MY PERSONAL EXPERIENCE WITH NSPS

As a current civil servant at Travis Air Force Base, I have been rated under NSPS and have advised supervisors, Higher Level Reviewers and Pay Pool Managers for three complete pay cycles. I was also a member of the NSPS implementation team at Travis AFB and a trainer for labor relations and



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00063 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.031

performance management under the system. I appreciate the opportunity to provide you with a synopsis of my experience under NSPS.

In the role of a rated employee, I experienced the gamut of obstacles that can arise when a pay pool is not strongly guided by the Pay Pool Manager. In the rating cycle ending September 2007, my supervisor served as the advisor for our Pay Pool Panel. She was able to clarify NSPS requirements as questions arose, but the Pay Pool Panel was dominated by one military panel member who strongly and vocally believed that all civilian employees were overpaid. Nevertheless, there were few requests for reconsideration, whereby an employee asks for a second review of his or her evaluation. Employees and supervisors alike were quite frustrated by the lack of transparency during this process. The following year, the Pay Pool Panel was again subjugated by the same individual, and the Pay Pool Manager delegated his duties to his deputy who also lacked leadership skills. Last year, the Pay Pool Panel featured only one military member while the other members delegated their duties to their civilian deputies, including the Pay Pool Manager. I was fortunate that my ratings were not negatively impacted to the extent of others based on the bias and inattention displayed by the Pay Pool Panel members.

As an NSPS trainer, I understand the system's requirements, and it was disappointing to watch as implementation failed to follow design. I think one of the primary reasons for its demise was the lack of engagement among senior military leadership and the cumbersome computer rating program provided by DOD. In my experience, many military members do not agree that they owe their civilians the same leadership that they provide their military subordinates. Transitioning from a pass/fail appraisal system where a supervisor's evaluation responsibilities involve checking boxes, providing only nine bullets to justify awards and offering only nine numerical ratings, to a full-blown performance management system where a supervisor has to write objectives and rate employees based on those objectives, was seen as too time consuming by most. In every class I taught, there were several vocal military supervisors who claimed they did not have time for this type of program. There was no mechanism to truly hold them accountable for their participation and the manner in which they discharged their duties, severely impeding the program's success.

In my role as an advisor to supervisors and Pay Pool Panels, I also witnessed the lack of commitment on the part of many of these participants. My installation consisted of five pay pools, and during the three rating cycles I sat in on each Panel at least once. The incongruence of the commitment by the individual Pay Pool Managers was astounding. In instances where the Pay Pool Manager demanded participation by the Panel members, the process ran much smoother and employees were provided more thorough consideration during the process. In the panels where the Pay Pool Manager delegated his duties to another or did not demand participation by his Panel members, the reviews were significantly more superficial and the biases demonstrated by the Panel members appeared to strongly impact the ratings.

As we move from NSPS, the civilian workforce at Travis AFB will transition back to the General Schedule. I am one of the employees whose pay will be negatively impacted by this move. I believe, and my supervisors agree, that I was properly rewarded for my work under NSPS. As such, I am currently paid between steps 6 and 7 of the next higher grade of the General Schedule from the grade at which I transitioned into NSPS. I will be eligible to retire in 2013 and if all else remains the same, I will be on



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00064 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.032

pay retention and penalized by only receiving fifty percent of the general pay increase for the rest of my career. This will also have a negative impact on my retirement annuity by reducing the salary I earn during my high-3 years.

## NSPS PROVISIONS IN THE FY10 NDAA

### Repeal of NSPS

The FY10 National Defense Authorization Act (NDAA), which repealed NSPS, stated that all employees must transition out of the system by January 1, 2012, and provided DOD six months to report to Congress on its plans for conversion. Specifically, the legislation mandated that all NSPS employees and positions must be transitioned out of NSPS and back to the statutory pay systems and all other aspects of the personnel systems that last applied to the employees or positions (as the case may be) before NSPS, or to the systems that would have applied if NSPS had never been established, whichever is applicable. The law expressly avowed that no employee would suffer a decrease in pay upon transition, and we thank Congress for including this provision.

Enactment of the FY10 NDAA signified the end of the controversial NSPS pay-for-performance system, but it marked only the beginning of a long, tenuous process of determining how to manage the 226,000 federal employees who served under the system. As Department of Defense officials move forward with the transition out of NSPS, the Federal Managers Association remains vigilant and stands by its commitment to ensure no civil servants are negatively impacted in an unjust manner during this process.

When news of the NSPS repeal was first announced, most of our DOD members expressed enthusiasm. They found the system cumbersome, time-consuming, lacking in adequate training, and inconsistently applied. The majority of them repeatedly called for FMA to support a repeal of NSPS and believed that while the General Schedule was flawed, it was the devil they knew rather than the devil they did not. However, once the NSPS Transition Office (NSPSTO) released its report to Congress at the six month mark, employees were informed that if their pay exceeded step 10 of their corresponding GS grade level, they would be placed under retained pay. It was at this time that DOD employees inundated FMA with calls urging our Association to call for a stop to this unfair practice, which has become our biggest concern surrounding the transition.

To date, nearly 22,000 employees have transitioned out of NSPS. It is our understanding that 16 percent, or just shy of 3,500 employees, are currently placed under pay retention. We will discuss the impact of this policy later in our testimony.

### Performance Management at DOD

The FY10 NDAA also afforded DOD the authority to create a "fair, credible and transparent performance appraisal system for employees," independent of both NSPS and the General Schedule, linking employee bonuses and other performance-based actions to appraisals. Such a system would seek to establish ongoing feedback and dialogue among managers and employees and include development



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00065 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.033

plans to offer employees more assistance in the areas of training, mentoring and counseling. The Secretary of Defense was also provided the authority to establish a DOD "Workforce Incentive Fund" consisting of incentive payments based on performance to attract and retain employees. The law specifies that employees should be involved in the design and implementation of such a system. The Secretary must submit the proposal for the personnel management system to Congress no later than the end of October of this year, with no plan taking effect until 90 days after that.

Much of this language is very similar to the language used in creating NSPS. The FY04 NDAA specified that NSPS must be fair, credible and transparent; the implementation must involve employee concerns; and, that managers and supervisors must receive training and retraining on the new system. This is all eerily familiar. What this should teach us is that implementation trumps design as the biggest factor in a system's ultimate success or failure. In order for any new system to succeed at DOD, we must learn from the implementation mistakes made under NSPS.

FMA's primary concern when NSPS was rolled out was the lack of concrete business rules that allow for a transparent and fair deployment of pay-for-performance. We heard several reports that the Pay Pool Panels and Sub-Pay Pool Panels were out of touch with the objectives and job functions of the employees they were rating. If the Panels were designed to be the ultimate authority on the final evaluation attributed to each employee and are able to adjust a supervisor's prescribed rating, they must have full working knowledge of the employees' jobs they are asked to rate.

Along the same lines, as they were aware of the amount of money in the pool, the Panels had a direct stake in the final ratings of employees. As such, reports surfaced revealing great pressure exerted by the Panels to lower ratings, especially in the cases of poorly written self-assessments, again, despite claims from DOD leadership that this should not or did not occur. The Panels were too focused on the impact they had on the share value. The sole purpose of the Pay Pool Panel should be to ensure fairness, transparency and consistency exist in the system. We encourage DOD to comprehensively review the functions of the panels prior to revealing any new performance management plans.

One of the biggest problems experienced during the execution of NSPS in this regard was the perceived bell curve distribution of raises. Managers and supervisors reported extreme pressure from higher-ups to maintain a specified distribution of funds or performance ratings within each pay pool. FMA warned of the severe danger of ratings being deflated or inflated to accommodate a small section of the population. We urged DOD to ensure employees received the ratings their performance dictated and were not harmed by a capricious ceiling. For any personnel system to be fair and effective, evaluative ratings and performance awards must be based on merit, not quotas and arbitrary caps. Forced distribution does nothing but contradict a pay-for-performance system, and a system employing such rules will never get off the ground.

Additionally, business rules contained in the FY04 NDAA required a supervisor to provide a feedback session before completing the NSPS appraisal, but we observed this usually did not take place. This constituted a key part of the NSPS process, but was often not afforded the attention it deserved. Job objectives should be discussed with employees to ensure they match with mission



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00066 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.034

objectives, supervisors' objectives and to recognize where good work has been conducted and how improvements can be made. We find it alarming these conversations often did not take place.

Many employees also felt uncomfortable in the assessment of their own work as required under NSPS. Inadequate training in this area contributed to employees' lack of confidence in the delivery of their own evaluation, as they were unsure of how best to properly convey the value of the work they perform each day. For many employees, this marked their first experience providing such information, and a self-evaluation that failed to reveal their full worth to the agency had the potential to negatively impact their paychecks significantly. It was our experience that the Pay Pool Panels relied heavily on written assessments, despite the fact that these assessments were not required by law. More attention must be paid to properly train employees how to write self assessments during the development of any future system in order to ensure employees receive the rating their efforts merit.

Despite the implementation problems experienced with NSPS, we believe the current General Schedule pay system and performance review methods are antiquated and in need of reform. However, certain fundamental principles of merit remain crucial to preserving the integrity and accountability of any new employment system. Demonstration projects and pilot programs in various agencies around the country over the past few decades have demonstrated that implementing human resource management structures can help improve the productivity and missions of agencies.

In April, the NSPSTO organized a conference in Cleveland – the Future Search Conference – with Pentagon officials, union representatives and other stakeholders to discuss the new flexibilities afforded to DOD in the FY10 NDAA. Albeit last minute, FMA was invited to participate and arranged for two members to attend the event. Although we felt more management participation would have made the conference more effective, we were anxious to move away from NSPS and discuss with our peers how DOD could proceed with a new personnel system. Nine union representatives were invited to attend the event, but vehemently opposed the conference's late notice, design and leadership. They questioned why the NSPSTO would be leading a conference to discuss personnel issues department-wide and expressed their displeasure that they were not included in the design phase of the conference but rather informed only after it was planned. Subsequently, the Transition Office cancelled the conference. We at FMA were disappointed the event was canceled just shortly before it was set to take place, but we were informed that rescheduling of the conference would take place in the near future. To date, it has not. FMA looks forward to the opportunity to express our insight on needed changes at the Future Search Conference, but at this point we remain skeptical it will be rescheduled.

If any future personnel system is to succeed, it must adhere to certain basic principles. First, the key to moving forward is collectively understanding no viable change in the federal government's human resource management will take place without the full buy-in of agency leadership, managers and employees. In undertaking a new endeavor, feedback from and collaboration among managers and employees significantly increases morale. Open and honest communication between management and union leaders will ultimately lead to fewer grievances and contract disputes. When all the stakeholders are involved in the formation of new programs or policies, the likelihood of acceptance by the workforce increases substantially.



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00067 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.035

Secondly, we believe that the highest performing employees should be rewarded with the highest rates of pay; those employees who fall below the curve in terms of overall performance should not be rewarded at the same level. A strong link between performance and pay provides employees with the confidence that their efforts will be appropriately recognized and rewarded. Where is the incentive in performing better than your colleague when little is done to differentiate additional efforts?

The current GS pay system promotes a workforce based on longevity rather than performance. We at FMA believe it is time for a change based on feedback from our members indicating the lack of distinguishing performance among employees serves as a de-motivator. We recommend a tiered system to rank employees which removes the "human factor" to the greatest extend possible to rate employees. However, employees under NSPS were too concerned with their number rating rather than the verbal feedback from their managers, and more education must be completed so that a "3" stops being viewed as a bad thing. We must also take appropriate steps to ensure cronyism and favoritism are removed from the process to the greatest extent possible.

Additionally, a shift in the culture of any organization cannot come without an interactive, ongoing training process that brings together the managers responsible for implementing the personnel system and the employees they supervise. If implemented properly, NSPS displayed great potential at the onset to retain and recruit a highly talented workforce.

As Congress and the Administration debate how to proceed with development of a new pay system at DOD, we suggest the following be included in any system:

- maintenance of current benefits for active duty and retired employees;
- no loss of pay or position for any current employee;
- merit principles preventing prohibited personnel practices as well as an adherence to current whistleblower protections and honoring and promoting veterans' preference;
- an appeals process for disciplined or terminated employees;
- adequate funding of "performance funds" for managers to appropriately reward employees based on performance;
- development of a performance rating system that reflects the mission of the agency, the overall goals of the agency, and the individual goals of the employee, while removing as much bias from the review process as possible;
- a transparent process that holds both the employee being reviewed and the manager making the decision accountable for performance as well as pay linked to that performance; and,
- a well-conceived, ongoing and mandatory training program that includes skills training and is funded properly and reviewed by an independent body (we recommend the Government Accountability Office as an auditor) which clearly lays out the expectations and guidelines for both managers and employees regarding the performance appraisal process.

Any new system, whether at DOD or applied government-wide, cannot be viewed as NSPS 2.0 or NSPS-lite. Perception is reality, and if employees believe they are being fed another NSPS, the system will be doomed from the start. Full buy-in from all stakeholders, particularly managers who are tasked with implementing new changes, is the first step in gaining the support of employees. The second is to



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00068 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.036

listen and act when feedback is given, one area where NSPS embarrassingly failed. In the end, it is imperative that any system stand by the principles of transportability, objectivity and transparency. We must take a cautious and deliberate path as we move forward.

**Training for Managers and Supervisors**

In 2004, the President signed into law the Federal Workforce Flexibility Act (P.L. 108-411), which added §4121 of Title 5 U.S.C. requiring agencies to create basic training programs for federal managers and supervisors. Hailed at the time by many in the federal community as a major step forward in ensuring agencies afford their managers the training necessary to effectively supervise their employees, the law, however, failed to establish funding mechanisms and accountability measures to ensure training takes place. The law also failed to provide specific guidance on the type of training managers and supervisors should undertake, while omitting when and how often this training should take place. The result is that current regulations give agencies the latitude to cut training from their budgets when funding is tight, and as you are aware, funding is always tight.

In order to provide federal managers and supervisors with training on the full array of subjects necessary to effectively monitor and manage their employees, we at FMA urge Members of Congress to support the Federal Supervisor Training Act (S. 674), introduced by Senator Akaka. This legislation, which FMA helped craft as part of the Government Managers Coalition, requires agencies to provide managers and supervisors with interactive, instructor-based training within one year of promotion to a supervisory position. Training would cover three primary management topics: basic supervisory training; mentorship training; and, training focused on prohibited personnel practices including collective bargaining and anti-discrimination rights. After receiving initial managerial training, supervisors would engage in training updates once every three years.

The FY10 NDAA included training language pulled directly from S. 674, applying the provisions to DOD managers and supervisors. As Acting Deputy Under Secretary of Defense Marilee Fitzgerald discussed in her testimony before this Subcommittee in April, the Department of Defense conducted an analysis of current and future workforce requirements and identified a critical need for enhanced supervisory training to develop "diverse civilian leaders who effectively manage people in a joint environment, ensure continuity of leadership, and sustain a learning environment that drive continuous improvement across the enterprise."[1] Fitzgerald detailed DOD's belief that managers and supervisors on the front lines "can have a stronger impact on employee performance and productivity than anyone else in the management chain." We thank Congress for extending these crucial regulations to DOD managers and supervisors and we encourage you to capitalize on this momentum and approve the Federal Supervisor Training Act to codify regulations currently in place to provide supervisors across the federal government with managerial training covering the full gamut of supervisory responsibilities.

## UNINTENDED CONSEQUENCE OF REPEAL – PAY RETENTION

[1] Written Testimony of Marilee Fitzgerald, Acting Deputy Under Secretary of Defense, Department of Defense "Developing Federal Employees and Supervisors: Mentoring, Internships, and Training in the Federal Government," April 29, 2010



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00069 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.037

Last year, FMA appeared before both the House Armed Services Committee and the Defense Review Board to detail our experiences regarding the NSPS transition. One key point FMA repeatedly emphasized over the last year was that many employees excelled under NSPS and as such, their pay exceeded that of their GS counterparts. In this sense, NSPS worked as it was designed – high achievers were finally rewarded for how well they performed, not solely by a raise determined by Congress with no correlation to job execution. However, as a repeal of NSPS seemed imminent, FMA continued to stress that the pay of these high performers should be taken into consideration if a transition were to take place. We cautioned that transitioning these folks would be complicated and laid out several suggestions in order to prevent loss of pay which would subsequently demoralize employees. Despite our repeated calls to take these employees into consideration, we are nonetheless faced with a situation where thousands of DOD employees will be negatively impacted. This unfortunately comes as no surprise.

In December of last year, we started hearing rumblings of a possible move towards pay retention for employees who exceeded step 10 of their corresponding GS grade. Under GS pay retention rules, these high performers will receive only half of the annual pay raise until the GS system "catches up" with them. We were also told that this would affect roughly 4,000 employees. At the time, pay retention seemed to be a relatively small problem. In February, the NSPSTO officially released information on the transition, specifically stating that those who exceed step 10 will be placed on pay retention. The irony in this is that if you were an under-performer, returning to the General Schedule will actually lead to an increase in pay. Employees who fall beneath step 1 pay-wise will automatically move up to step 1, and those who are between two steps will be promoted to the higher step, with an increase in pay.

To date, only ten percent of NSPS employees have returned to the General Schedule, and already nearly 3,500 of them (16 percent) have been placed on pay retention. This problem is far larger than DOD led us to believe initially. If this formula holds true for the 176,000 employees who are set to transition before the end of the fiscal year, we can expect roughly 28,000 employees to fall under retained pay status. If this holds true for all 226,000 employees under NSPS, that number jumps to over 36,000 employees. We are disappointed in NSPSTO's inability to provide concrete numbers on how many people will be affected by the transition. FMA has been able to obtain this information from locations where we have chapters, and our research indicates that an average of twenty percent of NSPS employees will be subject to pay retention. At Travis AFB, I anticipate over twenty percent of employees will face this pay cap. There is little reason why DOD is unable to share tangible numbers with stakeholders. We believe communication in this area has been severely lacking, despite DOD's commitment to "proactive communication."

In a report to Congress dated April 23, 2010, DOD laid out its plans for converting NSPS employees, 75 percent of whom will return to the GS system by the end of September.[2] In this document, DOD details the strides it is taking to reclassify all NSPS employees regardless of pay status. DOD concedes that this requires a significant amount of effort, but counters that many NSPS employees are covered by position descriptions carried over from the GS classifications. Many employees, FMA members and non-members alike, have told us their current NSPS workloads far exceed their job descriptions; the pay they received over the years reflects this as well. This puts the onus on senior DOD

[2] Report to Congress: Termination of the National Security Personnel System. April 23, 2010.



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00070 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.038

leadership to properly reclassify these individuals prior to their slated transition dates. We remain concerned that the expediency with which DOD is returning NSPS employees to the General Schedule will impede leadership from taking the time to adequately classify individuals. The elimination of the time-in-grade rules marked a positive step forward in preventing this, but DOD must also be held accountable for carrying out the reclassifications in a thorough manner.

The Department stated in the same report that it expects employees will be concerned about pay and that it intends to study this issue after classifications are finalized. We caution that by waiting until the classifications are over, employees will, at the very least, be subject to pay retention for one year. We also worry that this problem will be ignored once the transition is complete. DOD is informing employees of their classifications just prior to transition, and we believe this situation lends itself to a significant number of appeals regarding one's placement in the GS system. We would be interested to hear from DOD how many individuals have appealed their classifications, and how many more are expected.

It is unfortunate that DOD is unable to provide more information on the number of people affected by pay retention, as we believe the numbers will have a direct impact on any possible solutions. If we are in fact faced with a situation where tens of thousands of employees are placed on retained pay, we believe you will be dealing with a disgruntled and demoralized workforce which has now been jerked in and out of different pay systems over the last three years. Many of these dedicated employees have crunched the numbers and determined that the General Schedule will not catch up with them by the time they retire over the next decade. Additionally, pay retention does not only affect the current pay received by these employees but could also negatively impact their high-3 average salary, which is used to calculate retirement benefits. These individuals, myself included, feel they are being punished for performing above average work under a difficult and cumbersome system in which they did not ask to participate. We believe and will continue to stress that no employee should lose current, future or retirement pay as a result of a pay cap when converting back to the General Schedule.

Language included in the House version of the FY11 NDAA (H.R. 5136) requests that DOD report to Congress by November 15, 2010, on the agency's plans for a nation-wide pay adjustment, set to take place in January 2011, including information on employees under pay retention. This action is a step forward, but lends little time for congressional action before the January 2011 pay cycle.

**Suggestions for Preventing Pay Retention**

We at FMA believe there are many avenues the Pentagon and Congress could pursue to mitigate the effects of retained pay. While pay retention may be inevitable in certain situations, the following suggestions could be utilized in conjunction with one another to lessen the impact.

First and foremost, Department of Defense should explore implementing a provision in Title 5 which would allow DOD to circumvent pay retention rules under certain circumstances. An Office of Personnel Management guidance on the issue states:



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00071 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.039

*The duties and responsibilities of a position may change over time. For the most part these changes result from reorganizations, new or revised organizational responsibilities or missions, and changes in technology. Sometimes, however, the unique capabilities, experience, or knowledge a particular employee brings to the job can also have an effect on the work performed and therefore on the classification of the position.*

*While it is the position which is classified, the relationship of the employee to the position can be recognized when the performance of the incumbent broadens the nature or scope and effect of the work being performed... Such changes affect the difficulty of work or the responsibility and authority given the employee and can be recognized in the position classification decision.*

*Job changes resulting from the individual impact of an employee should be recorded to distinguish the position from descriptions of other positions.*

*When significant changes in work occur for any of the kinds of reasons mentioned above, the classification of the position (title, series, and grade) should be reviewed and revised as needed. When a position which has been affected by the impact of an individual is vacated, it should normally revert to its original classification.*[3]

We strongly encourage DOD to employ this option in situations where NSPS salaries far exceed the GS grade where the position is classified and in situations where the employee is nearing retirement. Along the same lines, ongoing consideration should also be given to awarding promotions based on the impact of the individual on the position. This type of promotion would apply only to the individual promoted. When the position is vacated by that individual, the position reverts back to the original grade for recruitment purposes. This tool is already built into the GS system.

Additionally, we must point out again it is imperative that ongoing attention be paid to the reevaluation of job classifications. If a significant portion of employees affected by the pay cap hold relatively similar positions, the Pentagon should consider modifying their classification to more accurately align job descriptions with the duties performed on a routine basis. An accurate calculation of the number of employees facing a cap on pay and the positions they hold is necessary to address this issue and should be pursued while the transition process continues.

While it may be too late to pursue this option for next year, consideration should be given to moving employees whose pay exceeds their corresponding GS positions into a system similar to the General Manager (GM) personnel classification which replaced the Performance Management Recognition System when it was terminated in 1993. Under such a system, employees' rates of basic pay would not have to be set at a fixed step rate for their GS grade, allowing salary flexibility. Implementing a system along these lines would ensure employees receive full annual pay raises and future performance recognition entitlements based on exceptional efforts in job performance and agency improvement. Employees would remain under this system until one of the following actions occurs: the employee is promoted to a grade that his/her current salary falls into; the employee is downgraded for

[3] http://www.opm.gov/fedclass/gsintro.pdf



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00072 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.040

cause; or, the employee leaves federal service for any reason, such as retirement. Pertaining to those who would be adversely affected due to the classification issue, employees in the GM system would be considered non-exempt for pay and overtime entitlement under the Fair Labor Standards Act. This may be an option in the future if pay retention ends up presenting a bigger problem than anticipated.

Another idea FMA is exploring is enactment of a pay retention phase-in. Under our working proposal, the employee facing retained pay would receive fifty percent of the GS raise in 2011, sixty percent in 2012, and so forth. Such a proposal would establish an end date on pay retention of five years. At that time, the employee would receive the full GS raise, regardless of whether he or she was still on retained pay. This option would allow employees to properly plan for the coming years, as well as their retirement date and the proposal's impact on their high-3.

An additional proposal we are researching is the option of providing retained pay employees the full raise equal to that of their corresponding GS classification. For example, let us say an employee's position is classified as a GS-12 (base salary rates ranging between $60,274 and $78,355), but exceeds the pay of a GS-12 step 10. With a proposed pay raise of 1.4 percent for 2011, this employee would receive 1.4 percent of the base salary rate, adjusted for length of service, within these ranges. In such a situation, the employee would obtain the raise they otherwise would have received had NSPS never been implemented.

These are just a few examples of how we at FMA believe the negative impact of pay retention can be lessened, though we do not wish to convey that these are the only ways. With additional input from DOD leadership, Congress and stakeholders, we believe we can come up with viable, acceptable changes to ensure employees receive the pay to which they are entitled in the coming years.

## CONCLUSION

Many FMA members were pleased with Congress' decision to end the National Security Personnel System. It is not our intent to delay or halt rollback of the controversial system. However, more attention must be paid on the impact the transition has on the employees who keep DOD functioning. We appreciate the attention the Subcommittee is placing on this issue and we hope this hearing will be the jumping off point for further discussions on pay retention.

Additionally, we welcome discussions regarding performance management and it is our hope the NSPSTO will move forward in rescheduling the Future Search Conference. We believe there is great potential to learn from NSPS and move forward with an alternative personnel system.

Thank you again for the opportunity to express our views here today and I am happy to answer any questions you may have.



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00073 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.041

**STATEMENT BY**

**JOHN GAGE, PRESIDENT**
**AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO**

**BEFORE THE**

**SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT,**
**THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA**

**SENATE COMMITTEE ON HOMELAND SECURITY**
**AND GOVERNMENTAL AFFAIRS**

**ON**

**THE NATIONAL SECURITY PERSONNEL SYSTEM AND**
**PERFORMANCE MANAGEMENT IN THE FEDERAL GOVERNMENT**

**JUNE 9, 2010**



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00074 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.042

Mr. Chairman and Subcommittee Members:

On behalf of the American Federation of Government Employees, AFL-CIO, which represents 600,000 federal workers, including 260,000 in the Department of Defense, I appreciate the opportunity to testify today on the National Security Personnel System and performance management in the federal government.

NSPS TRANSITION

As you know, during the National Security Personnel System's (NSPS) lifetime, DoD did not convert bargaining unit employees to the system. At first this was because the NSPS Labor Relations regulations were being challenged in court. Later, after Congress removed DoD's authority to create its own labor relations system, but required it to operate within 5 U.S.C. Chapter 71 with some modifications, the Department chose to avoid negotiations over NSPS by continuing not to convert bargaining unit employees. As a result, AFGE has very few employees we represent who were under NSPS and therefore, we have little direct experience with the system. The only reason we do have some bargaining unit employees in NSPS is because its lack of fairness and transparency made the employees understand they needed a union and they organized after being converted to the system.

As a result of Section 1113 of the National Defense Authorization Act for Fiscal Year 2010, NSPS was repealed and DoD was given until January 1, 2012 to convert NSPS employees back to their prior systems, with the vast majority to be put back into the General Schedule (GS) system. We understand that there are some complaints being raised by employees who converted back to the GS system and are in a pay retention status that will temporarily limit future pay increases.

It is neither our intention nor our desire to see any employees disadvantaged by their conversion out of NSPS. But, these situations need to be put into perspective. Employees who made so much money under NSPS that they have to be on pay retention when they are put back into the appropriate GS grade, already got what could be considered an early raise and have benefited from being at these higher pay levels for some length of time. They will continue to benefit because their pay will not be lowered; it just may not rise as quickly as it did under NSPS. And, even under NSPS, it might not have kept rising because employees could have hit "control points," the invisible barriers preventing them from rising to the top of their bands, or their pay pool panels might have changed their priorities to favor other occupations and activities. In addition, the Secretary of Defense had authorized 50% of the General Pay Increase for NSPS employees in 2008 and zero per cent for 2009 – it would all have gone into the pay pools. The NDAA 2008 required at least 60% of the GPI to be given and to be given as pay increases. So, under NSPS these employees would not have received the full GPI and could not count on continuing to receive the same performance pay increases.

Employees who got bigger raises under NSPS than they would have under the GS system may believe that this was because they were superior employees who deserved those increases. And, some of them probably did. But DoD's own internal evaluation of NSPS



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00075 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.043

covering payouts for 2008, showed the disparate impact of NSPS raises based on factors having nothing to do with performance. The report, done by SRA International and released

June 22, 2009, showed inequities based on race, salary, position, and where in the DoD hierarchy one worked.

The SRA report showed a trend in how NSPS performance payout money was distributed. Perhaps the most damning statistic was that the percentage salary increases, and the percentage value of bonuses were more correlated with income level than with performance level. Higher-level, higher-paid employees got higher performance ratings and payouts than lower-level, lower-paid employees. The disparity was especially great between employees earning $100,000 or more and employees earning $60,000 or less. The latter group actually lost money compared to GS employees.

The SRA report states the facts plainly, "...in general, the higher the pay, the higher the rating, the higher the proportion getting the higher number of shares for ratings of 3 or 4, the higher the percent who received an increased rating due to the contributing factors, the higher the payout percentage." The report further found that, in general, being a racial minority had a negative effect on one's rating and payout, and being Black had a more negative effect than membership in other racial groups. I would note, Mr. Chairman, that similar concerns have been raised regarding the Defense Civilian Intelligence Personnel System. In fact, the House NDAA for 2011 puts that system on hold for another year.

AFGE has also heard from some DoD managers, who were under NSPS and who say that it was considered difficult, if not impossible, for any employees who worked outside the Pentagon or the headquarters of a major command to be doing work that could possibly be important enough to the mission to deserve the highest rating, no matter how good their performance might have been. There appeared to be a profound bias in favor of employees who worked higher up the chain of command or closer to the Pentagon as opposed to those who did not. We have been told that there were hierarchies of this bias. While it was best to work in the Pentagon or its vicinity, next best was a regional command, and so forth. Assessments of employee performance under NSPS could have more to do with geography, race, and status than how well one did one's job.

So, while employees who made so much under NSPS that they are put on pay retention when they returned to the GS system may believe their performance was so superior to their colleagues that they deserved every penny of it, the truth may be that some of them got those raises because they were in high places, working for powerful people, or were otherwise not negatively affected by the discriminatory practices revealed in NSPS.

We also know that there were a significant number of good employees who lost money under NSPS. Some employees who got Level 3 performance ratings, which DoD titled "Valued Performer," were so valued that they received less of an increase than their GS counterparts. Is anyone talking about converting them to the GS system at the point where they would have been had they never been converted to NSPS? They are the real losers in this. In fact, because DoD did not increase compensation budgets to invest in



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00076 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.044

performance, these employees actually had money taken away from them to pay for the higher raises other luckier employees got.

CLASSIFICATION ISSUES

As I indicated before, we have had little direct experience with NSPS because for the most part we did not represent employees under the system. Therefore, we do not have a lot of information about classification problems in the transition. Our understanding is that the vast majority of positions did not change when they went into NSPS. Therefore re-establishing these positions in the GS classification system should be relatively simple.

One anecdote we have heard involves an employee who was a GS-09 when she was converted to NSPS. She continued to do the same duties she had done before her conversion, got the same modest increases the majority of her co-workers got, and found herself falling behind what she would have been making if she had remained under the GS system. She put in for a promotion to a non-NSPS GS-11 position and was selected. At first she was told she would get the usual 2-step increase upon promotion, but then was told that under NSPS she was considered a "virtual" GS-11 and therefore would get the GS-11 position, but not the raise. Strictly speaking this is not a conversion issue. But it is a confusing manipulation of the system, where employees have no idea what "virtual" grade they are in under NSPS and why they are put in a particular grade and step under GS. This matter should be addressed.

INVOLVEMENT WITH DOD ON NDAA 2010 AUTHORITIES

On March 15, 2010, we and other unions in DoD were invited to a meeting with the NSPS Transition Officer, John James, who was selected to head the newly created NSPS Transition Office on January 20, 2010. We learned that Mr. James and his office were tasked with both NSPS transition and carrying out the authorities granted DoD in the NDAA 2010, that is, creating a new performance management system, developing workforce incentives, and utilizing hiring flexibilities. Just as an aside, given the passionate antipathy DoD employees and unions feel for NSPS, it seems counter-productive to put "NSPS" into the title of the management official charged with working constructively with the unions to create new more positive systems and avoid the horrendous mistakes made in implementing NSPS.

AFGE and the unions from the United Defense Workers Coalition (UDWC) met with Mr. James on March 31, 2010 to discuss the two issues that the NSPS Transition Office covers – the transition of NSPS employees back to their prior pay system and the authorities granted in the NDAA 2010. The meeting was frank and candid. At the meeting, the unions spoke about our NSPS experience and how wary we are about repeating it. We agreed to continue discussions and met again with Mr. James on April 30, 2010. We talked about the difficulties in trying to achieve a good balance between the need to take the time to do things carefully and get it right and the external and internal pressures to move quickly on the NDAA 2010 authorities. We also discussed the uncertainties inherent in moving ahead with a Department-wide system while we know there may also be a new government-wide system proposed in the future.



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00077 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.045

At the April meeting, the unions and DoD agreed to move ahead with a conference to develop ideas for the new systems authorized by the NDAA 2010. In discussions with Mr. James we agreed that we would jointly develop and design the conference and that it would be a brain-storming, idea-generating conference – not a decision-making one. We see this as an important first step in having the kind of discussions and pre-decisional involvement that should have been part of the development of NSPS, but were woefully missing. The unions are developing our ideas for a joint design for the conference to share with DoD. We are cautiously optimistic that we are on a path that has the potential to lead us into a better process and better product than was ever a possibility under NSPS.

AFGE'S IDEAS FOR PERFORMANCE MANAGEMENT, WORKFORCE INCENTIVES, AND HIRING

AFGE does not believe that performance management has to be as complicated as many systems are. NSPS, for example, had a complicated process for coming up with employees' ratings. Each employee was given job objectives. Supervisors would assign one or more contributing factors to each job objective. "Contributing factors" included such things as "cooperation and teamwork," "leadership," and "customer focus." The supervisor was supposed to assign a rating from 1 to 5 for each job objective. Then he or she would rate the employee on the contributing factors associated with that job objective. If the employee met the "expected" benchmark descriptor on the contributing factor, it would have no effect on the rating for that job objective. If the employee failed to meet the "expected" benchmark descriptor, the job objective rating was lowered by one point. If the employee met or exceeded the "enhanced" benchmark descriptor, the job objective rating was raised by one point.

If an employee had a rating of 1 on a job objective, however, the contributing factors would not be applied. It was not possible to use contributing factors to adjust upward a Level 1, or "unacceptable," rating on an objective nor could it be lowered, because it already was the lowest possible rating. If a job objective was scored at level 2, the contributing factors could not be used to lower the job objective rating to level 1, but they could be used to raise it to level 3. If the job objective rating was level 5, it was not possible to change the rating upward because level 5 is the highest rating possible, but it was possible to lower the rating to level 4. Supervisors were then to apply a formula, which would result in a number that would determine the employee's summary rating. All of this would take place before the rating went to the pay pool panel, which could change one or more of the job objective ratings or the summary rating. This was hardly a transparent, credible, or streamlined system.

So what are the basic things a performance management system needs to do to be a good measure and motivator of performance? What do employees want in a performance management system? We believe that first and foremost, employees need to know what is expected of them and what they need to do to meet those expectations. In other words, what does the employee need to do to be "in good standing" and avoid being not "in good standing"? And of course, this should not be just a one way lecture, but a real discussion about the job, the mission, the tools, the assignments, and the employee's strengths and weaknesses and how he or she can expand the former and improve the latter.



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00078 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.046

There also need to be Recognition and Awards systems that celebrate and reward exceptional performance as well as smaller, but also valuable contributions. Linking these awards too directly to the performance management system, other than by requiring "in good standing" performance, limits flexibility and risks all of the pitfalls of so-called "pay-for-performance." There can be other criteria, negotiated with the union, and tied to the changing needs of the organization, that can allow the parties to meet the needs of the agency and the workers and create workforce incentives that are meaningful, evolving and up to the minute.

The NDAA 2010 requires that the performance management and other authorized systems be developed within the GS system. The GS system was created as a performance-based system. It has within it numerous mechanisms to reward good or great performance, address poor performance, attract and retain talent, etc. Unfortunately, it has not been well used by supervisors and managers. Among the reasons given for the failure to adequately use the GS provisions to award, retain, recruit, and develop employees, two reasons stand out.

First, supervisors have not been adequately trained to develop and motivate employees nor are they supported when they do take the time to discuss performance with employees, document performance, fight for the rewards or remedial actions they believe their employees need or deserve, etc. The second reason is that there isn't enough money to either award employees or develop them adequately. Training money is one of the first victims of budget cuts, and award money is close behind.

There is no magic system that does the managerial work or guarantees results. Supervisors and managers have to be well-trained. Their ability to manage and develop their employees has to be valued far more highly than it is now – and certainly more highly than their ability to push paper, write reports, and bark orders. Developing employees through career ladder programs, programs for training, recognition and enhancement of their talents, and career mobility must be emphasized. There must be additional funds put into developing and rewarding the workforce – if this is to be a zero sum game where some employees are rewarded only because other good employees are losing, we will never succeed in improving performance management and improving the delivery of government services.

We believe the best opportunity to move DoD and the rest of the Federal Government forward is for agencies and departments to work with their employees and their unions. Through collective bargaining and the provisions of Executive Order 13522: Creating Labor-Management Forums to Improve the Delivery of Government Services, we can come up with better processes for evaluating performance, rewarding it, and developing employees for the future needs of the organization. We are prepared to continue working with DoD and OPM in representing our bargaining units and bringing their ideas and interests into achieving our agencies' missions and serving the American public.

That concludes my statement. I will be happy to respond to any questions.



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00079 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.047

**BACKGROUND**
**THE NATIONAL SECURITY PERSONNEL SYSTEM AND PERFORMANCE MANAGEMENT IN THE FEDERAL GOVERNMENT**
**JUNE 9, 2010**

## BACKGROUND

On October 28, 2009, President Obama signed the Fiscal Year (FY) 2010 National Defense Authorization Act (NDAA) into law. The FY 2010 NDAA repealed the National Security Personnel System (NSPS) at the Department of Defense (DoD),[1] which was established in the FY 2004 NDAA.[2] DoD employees will be transitioned back to a personnel system in which they were previously enrolled, or would have been enrolled had NSPS never existed, by no later than January 1, 2012.[3]

In addition to repealing NSPS, the FY 2010 NDAA provided DoD with certain personnel flexibilities, including the authority to create a new performance management system at DoD.[4] The Office of Personnel Management (OPM) has also indicated that it plans to propose legislation to develop and implement a new government-wide performance management system for all Federal employees.

This hearing will address issues connected with the repeal of NSPS, including the transition of approximately 226,000 DoD employees out of NSPS and the personnel flexibilities granted to DoD. Additionally, this hearing will examine the steps OPM has taken, or plans to take, to create a new government-wide performance management system.

## THE NATIONAL SECURITY PERSONNEL SYSTEM

On November 24, 2003, President Bush signed FY 2004 NDAA into law, which provided DoD with authority to create NSPS, a new personnel system at DoD, the nation's largest Federal agency.[5] At DoD, NSPS replaced the General Schedule (GS) system, the personnel system that covers the majority of Federal employees. The GS system contains 15 pay grades, each of which is divided into 10 steps. Employees covered under the GS system receive pay increases and promotional opportunities based both on length of service with the Federal government and performance. GS employees generally continue advancing to higher steps in each grade provided that their job performance is rated acceptable or better.

NSPS, considered a "pay for performance" personnel system, sought to base an employee's pay increases and promotional opportunities entirely on his or her performance evaluation ratings. NSPS contains "pay bands," which encompass a wider pay range for positions than a single GS

[1] P.L. 111-84, Section 1113.
[2] P.L. 108-136, Section 1101.
[3] P.L. 111-84, Section 1113.
[4] *Id.*
[5] P.L. 108-136, Section 1101.

ph44585 on D330-44585-7600 with DISTILLER
VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00080 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT
58031.048

grade.[6] The pay band system was intended to provide DoD supervisors with greater flexibility to hire qualified employees at higher rates than were possible under the GS system and to retain high-performing employees by increasing their pay at a greater rate than allowed under the GS system.[7]

DoD began implementing NSPS in April 2006,[8] and completed the conversion process for the first group of employees in March 2007.[9] By the end of 2009, when NSPS was repealed, approximately 226,000 DoD employees were covered under NSPS.[10]

**PERFORMANCE MANAGEMENT AND PAY UNDER NSPS[11]**

At the beginning of each new performance-evaluation period under NSPS, employees met with their supervisors and developed an individual performance plan, which outlined their achievable and measurable performance expectations for the year.[12] Supervisors were encouraged to involve employees in the development of their job objectives and the identification of applicable contributing factors to the accomplishment of those objectives.[13]

At the end of the performance appraisal period, supervisors were responsible for evaluating each employee in a narrative manner using the established performance criteria, and then translating the narrative into a five-point numeric scale. Under this scale, "1" was the lowest score an employee could receive and "5" was the highest.[14] Employees who received a rating of "2" or higher were eligible to receive a "general salary increase."[15] The general salary increase was not less than 60 percent of the General Schedule increase and was paid at the same time that employees under the GS system received their annual increase in pay.[16] Employees rated "3" or higher were eligible for a performance-based pay increase.[17]

Within 10 days of receiving his or her performance evaluation, an employee could request a reconsideration of his or her rating from the pay pool manager, who was required to render a

---

[6] Congressional Research Service, *Pay-for-Performance: Lessons from the National Security Personnel System*, December 19, 2009, p. 7, *available at* http://www.crs.gov/ReportPDF/RL34673.pdf.

[7] *Id.*

[8] National Security Personnel System, "May 2006 SOFC Captures Attitudes of NSPS Employees," *available at* http://www.cpms.osd.mil/nsps/sofc.html.

[9] Congressional Research Service, *Pay-for-Performance: Lessons from the National Security Personnel System*, December 19, 2009, p. 5, available at http://www.crs.gov/ReportPDF/RL34673.pdf.

[10] Department of Defense, "Report to Congress: Termination of the National Security Personnel System," April 23, 2010, p. 2, *available at* http://www.cpms.osd.mil/nsps/docs/reporttoCongressTerminationofNSPS.pdf.

[11] This section refers to this process in the past tense since it is currently being phased out.

[12] Department of Defense Directive 1400.25-M, Subchapter 1940, "Performance Management," SC1940.5.5 and SC1940.5.5.1, pp. 6-7. (Dec. 1, 2008), *available at* http://www.dtic.mil/whs/directives/corres/pdf/1400.25_SC1940.pdf.

[13] *Id.* at SC1940.5.6, p. 7.

[14] *Id.* at SC1940.9-10, pp. 12-14.

[15] 5 C.F.R. 9901.323(a)(1).

[16] *Id.*

[17] Department of Defense Directive 1400.25-M, Subchapter 1930, "Compensation Architecture Pay Policy," SC1930.9.3., p. 7 (Dec. 1, 2008) *available at* http://www.dtic.mil/whs/directives/corres/pdf/1400.25_SC1930.pdf.

ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00081 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.049

written decision within 15 days of receiving the employee's request.[18] The employee could appeal that decision within five days to the Performance Review Authority, who would render a final decision within 15 days of the request.[19]

After receiving a performance evaluation, each employee was assigned a certain number of "performance pay shares" by the "pay pool panel."[20] The pay pool manager was responsible for ensuring that the pay performance shares were distributed in a legal and consistent manner.[21] A performance pay share was a predetermined percentage of the pay pool that was used to calculate employees' performance-based payouts.[22] The employee performance payout could be paid as an increase in base salary, a bonus, or a combination of the two.[23] The number of pay shares an employee received was based on his or her numeric rating. The pay pool panel could award an employee with a rating of "3" either one or two shares; a rating of "4" with three or four shares; and an employee of "5" with five or six shares.[24]

**FISCAL YEAR 2010 NATIONAL DEFENSE AUTHORIZATION ACT AND THE REPEAL OF NSPS**

As noted above, the FY 2010 NDAA repealed NSPS and mandated that DoD employees be returned to their past pay systems by January 1, 2012.[25] The NDAA further required that no employee suffer "any loss of or decrease in pay" as a result of converting out of NSPS.[26] Approximately 75 percent of these employees will transition to the GS system during FY 2010.[27] The remaining 25 percent of NSPS employees will transition to other pay and personnel systems, beginning in spring 2011.[28]

Each employee transitioning to the GS will be assigned a GS title, series, and grade using OPM's GS classification criteria.[29] Because NSPS pay bands are broader than GS grade levels, and thus encompass a range of GS grades and positions, employees under an NSPS pay band may have been performing work that falls under more than one GS grade level. As a result, classification may be difficult and employees may be assigned different GS grades than prior to their conversion into NSPS. Employees will have the right to appeal their GS classification when they transition from NSPS.[30]

---

[18] *Id.*, Subchapter 1940, "Performance Management," SC1940.13, pp. 20-22.
[19] *Id.* at SC1940.13.9-10, p. 22.
[20] *Id.*, Subchapter 1930, "Compensation Architecture Pay Policy," SC1930.9, pp. 5-6.
[21] *Id.*, Subchapter 1940, "Performance Management," SC1940.4.2, p. 3.
[22] *Id.*, Subchapter 1930, "Compensation Architecture Pay Policy," SC1930.9.3., p. 7.
[23] *Id.* at SC1930.9.4.1, p. 7.
[24] 5 C.F.R. 9901.342(f).
[25] P.L. 111-84, Section 1113.
[26] *Id.*

[27] Department of Defense, "Report to Congress: Termination of the National Security Personnel System," April 23, 2010, p. 2, *available at* http://www.cpms.osd.mil/nsps/docs/reporttoCongressTerminationofNSPS.pdf.

[28] *Id.*

[29] *Id.* at p. 5.
[30] *Id.*

ph44585 on D330-44585-7600 with DISTILLER

Some employees under NSPS received pay raises that place their current salaries above the maximum rate (step 10) for their position's grade under the GS system. These employees will maintain their current salaries, but they will be placed on "pay retention."[31] Under pay retention, an employee receives only half of the applicable annual pay increase each year until the GS grade maximum catches up with his or her pay.[32]

**DEPARTMENT OF DEFENSE AND GOVERNMENT-WIDE PERFORMANCE MANAGEMENT**

The FY 2010 NDAA also provided DoD with new personnel flexibilities. Specifically, DoD was granted the authority, in coordination with OPM, to: (1) create a new performance management system for DoD employees; and (2) design a new hiring process at DoD.[33] DoD is required to report to the House and Senate Armed Services Committees, the Senate Committee on Homeland Security and Governmental Affairs, and the House Committee on Oversight and Government Reform by no later than October 28, 2010 on its plans regarding the performance management and hiring authorities granted in NDAA.[34]

Regarding performance management, the FY 2010 NDAA requires DoD to promulgate regulations to provide for a "fair, credible, and transparent" appraisal system for employees, including a system for "linking employee bonuses and other performance-based actions to performance appraisals of employees."[35] In establishing this new system, DoD is required to take certain actions, including: (1) adhere to merit principles; (2) ensure that employees and unions are involved in the design and implementation; (3) provide for adequate training for supervisors, managers, and employees, on the implementation and operation of the system; (4) include effective transparency and accountability measures and safeguards to ensure that the management of such system is fair, credible, and equitable.[36]

Additionally, OPM has indicated that it will pursue significant reform of the civil service system. John Berry, the Director of OPM, has stated that he believes the Congress should "refresh the GS system" with reforms related to performance accountability, pay flexibility and professional training.[37] Although OPM has yet to propose any specific features it believes would be necessary in a new government-wide performance management plan, Director Berry has stated such a system must be fair, transparent, and that any promotion process and criteria be clearly spelled out and understood by employees and supervisors.[38]

---

[31] *Id.* at p.5-6.
[32] *Id.* at p. 6.
[33] P.L. 111-84, Section 1113(d).
[34] *Id.*, Section 1113(e).
[35] *Id.*
[36] *Id.*

[37] Joe Davidson, "OPM director considers overhaul of civil service system," *Washington Post*, February 10, 2020, *available at* http://www.washingtonpost.com/wp-dyn/content/article/2010/02/09/AR2010020903855.html.

[38] *See e.g.*, Remarks by John Berry at the Human Capital Management Forum, November 17, 2009, available at: http://www.opm.gov/About_OPM/director/remarks/11-19-09-HR_CapitalMgtForum.asp.

ph44585 on D330-44585-7600 with DISTILLER



58031.051

## Prepared Statement of Howard Risher, Ph.D., Representative of HRSolutions, Wayne, PA

### In Defense of Pay for Performance

This is a defense of pay for performance. It has to start with a caveat – the phrase "pay for performance" is loosely used and can encompass any plan that involves cash payments tied to individual, group and/or organization performance. Payments made as a lump sum are generally considered to be a bonus or incentive plan. Payments made as an increase in base salary were until recently referred to as "merit pay" but that phrase has been replaced by pay for performance.

The distinction is important because virtually all of the research in industry has focused on cash incentive plans. The research provides solid evidence that cash incentives can influence individual and group performance. The use of incentive plans increased steadily across most sectors in the years from 1990 to 9/11. The recent experience on Wall Street confirms the power of cash incentives. That experience also serves to highlight the criticism of incentives – if they are not carefully designed, they can motivate the wrong behavior. That, however, confirms incentives work to motivate behavior.

To make a point, cash incentives have been used in industry since at least the middle of the 19th century. Profit sharing plans were introduced first by the French. Gain sharing plans were conceived by a union leader, Joe Scanlon, in the 1930s. Executive incentives were first broadly use in the post-World War II era when "professional" managers replaced owner managers. So-called "piece rate" incentives, with payouts based on the units of work completed by manual workers, reached the peak of use in the 1950s. The recent trend has been to adopt group or team incentives with payouts tied to achieving performance goals.

The use of policies linking salary increases to individual performance has also grown in use to the point now that it is effectively a universal practice for white collar workers in industry. The concept is widely used for other workers although the actual extent, especially in smaller companies, is not well understood. To argue that pay for performance is ineffective is to refute the experience of thousands of employers.

Pay for performance in the broadest sense is deeply rooted in the history of the US. It is a core value of capitalism that workers should earn their pay. We believe "hard work should be rewarded." A number of popular stories over the years have reflected the idea that hard work enabled someone to get rich. Cultural icons like Donald Trump and Bill Gates receive media attention largely because of wealth accumulated by success in industry. We as a country are quick to accept the appropriateness of significant financial rewards for personal accomplishments. That is obviously true in sports and entertainment as well as in science. The use of financial rewards is an accepted practice in virtually every sector.

The federal government is the only sector where that is not true. Prior to the recession, pay for performance was steadily gaining acceptance among state and local public employers.



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00084 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.052

**The Alternative – the GS System and Step Increases**

It is important to keep in mind that this is actually a choice between two approaches to salary management. The alternative to pay for performance is the GS system. Significantly the critics of pay for performance rarely advocate continued reliance on the GS system; it's the fallback. In fact, it is difficult to find anyone who has made public statements supporting the GS system.

It has been the subject of any number of critical reports over a couple of decades. The National Academy of Public Administration (NAPA) has published at least three recommending the switch to a banded salary system that relies on pay for performance to govern salary increases. The most recent was a 2004 report, *Recommending Performance-Based Federal Pay*.

The criticism of the GS system includes:

- The step increases as well as promotions to the top of each job series career ladder are essentially automatic which contributes to a sense of entitlement.
- The ties to the labor market and prevailing market pay levels are cloudy at best. BLS does not generate data showing how well jobs are paid relative to market rates.
- While federal recruiting has been helped by the economic downturn, the limited data survey data suggests that federal jobs in technology, science and engineering have been severely underpaid. Over the years that presumably affected the number and qualifications of applicants.
- At the same time, the automatic promotions and step increases raise federal salaries faster than is typical in the private sector. In some cases the pay is above what might be expected in a private sector job for a relatively inexperienced worker with similar credentials. That effectively locks them into a federal career and helps to explain the relatively low turnover among federal workers.
- Experts on Millennial generation employees contend a tenure-based system will be a deterrent to recruiting. Young workers have grown up playing video games that provide for instantaneous feedback and rewards for good performance. They are also accustomed to working with little supervision. They are not going to be satisfied waiting in line for older workers to retire.
- Finally, the GS system is bureaucratic and costly to administer. Over the years the number of specialists responsible for maintaining the system – the "classifiers" – has been severely reduced by staff reductions to the point that there is virtually no serious attempt to see that jobs are properly classified. The problem of over grading or "grade creep" was acknowledged to be serious years ago but has not been studied recently.



ph44585 on D330-44585-7600 with DISTILLER
VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00085 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT
58031.053

It is highly likely that no other employer in any sector has a pay system that has been essentially unchanged for over 60 years. The reluctance to break away from the GS system is understandable. It is the only salary system most federal employees have ever known. The notion of pay for performance triggers a level of uncertainty and anxiety – federal employees are accustomed to certainty – and their concerns have been reinforced by the critics.

**National Academy of Sciences 1991 Recommendation**

In 1990 Connie Newman, then the Director of OPM, asked the National Academy of Sciences (NAS) and its research arm, the National Research Council, to study the appropriateness of merit pay for federal workers. A panel composed of academics and industry representatives completed an exhaustive review of the research literature and summarized its conclusions in the report, "Pay for Performance: Evaluating Performance Appraisal and Merit Pay," (1991)[i]. The panel concluded that where pay for performance is most successful, it is "firmly embedded in the context of other management systems."

They panel recommended that the federal government move to pay for performance. It should be added that the NAS report was released at a time when the Performance Management and Recognition System (PMRS) was acknowledged to be a failure. Moreover, the employee performance practices used in the 1980s were not nearly as effective or as defensible as those used today. There have also been important developments in the "management systems" used now in government (e.g., balanced scorecards). If anything, a similar panel today would be more solidly supportive of pay for performance.

**Pay for Performance in the Corporate Environment**

Pay for performance is taken for granted in the business world. No one truly questions it. Salary increases are linked to performance ratings from the start of an employee's career.

No business leader would agree to a pay system that generates automatic increases. Salaries are a fixed cost which is one of the reasons why variable pay incentive plans have grown in popularity. Except for union contracts, step increase systems that trigger automatic cost increases were replaced years ago.

Companies have been shifting increasing amounts from budgets to grant larger increases to the high performers. In a business environment that means the funds available for poor performers are reduced.

There are to be sure prominent differences between the public and private sectors. First, pay is still handled confidentially in the business world. Employees may discuss their pay increase with immediate co-workers but they do not have access to broader information. Second, executives and managers participate in incentives (as well as stock options) that are tied to the success of the company. That makes



ph44585 on D330-44585-7600 with DISTILLER
VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00086 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT
58031.054

performance a priority that cascades down to the lowest levels. The importance of performance is reinforced in any number of other ways as well. Third, supervisors are accustomed to evaluating performance and making salary increase decisions. They accept the role even if they are reluctant. They are very much aware the performance of their unit will be an important determinant of their compensation.

No one suggests pay for performance is without problems in the private sector. A few individuals are inevitably dissatisfied. If there is a trend, it is to strengthen the connection between pay and performance.

**Need for a Policy to Govern Salary Increases**

Every employer has a need for a salary increase policy. Market rates increase throughout the year. Even in a recession some employers are granting increases. The rates of increase are governed by the supply and demand for specific knowledge and skills. High demand occupations always command higher increases. As an employee gains job experience, his or her "value" to an employer increases -- along with the salary other competing employers would be willing to offer. That reality affects every employer.

Employers need a rationale to govern and explain the increases needed to stay competitive. The amounts budgeted depend on an analysis of the increases in the labor market and the employer's ability to pay. The policy questions relate to the considerations governing the allocation of increase budgets.

There are only two alternatives – automatic step (or across the board increases) or performance-based increases. A few employers combine the two, relying on a policy that provides for step increases for the first few years – with the typical policy step increases take an employee's salary to the market rate for a job – with later increases then based on performance. But the clear trend is to pay for performance. That is true in every sector, including most recently public education.

The recognition that jobs have a market rate -- usually defined as the market mean or median -- raises other policy questions. Companies manage salaries relative to market rates as a strategy to keep labor costs competitive. The policy reflected in most salary systems is that an average "full" performer should be paid a market average salary. The question then is: What circumstances warrant paying an employee above the market level?

The textbook merit policy reduces the allowable increases above the market rate. That is to say, the increases are smaller or less frequent. Many companies go further and define caps tied to performance ratings. For example, employees rated as a "3" or below cannot be paid above the market rate. In other words, the market rate is the maximum an average employee can be paid. There is a higher level cap for the "4's". In the business world, only the best performers can reach the top of their salary range.



ph44585 on D330-44585-7600 with DISTILLER

VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00087 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT

58031.055

**Refuting the Critics**

The arguments made by the critics are not new. "Too much subjectivity." "Biased ratings." "Over emphasis on individual performance." "Little if any evidence that the new policy triggers improved performance." "Reinforces a top down, control culture." There is no doubt evidence for these arguments.

However, a counter argument should start with a question: Would public agencies be better served if individual performance was ignored? Under any circumstances employees need feedback. That is true in any learning situation. Moreover, organizations have a need to identify their "star" performers as well as the few employees who consistently fail to satisfy minimal expectations. Increasingly, performance planning integrates employee goals with those of the organization and that process is repeated annually. The assessment of performance at each level is central to planning for the next year.

From a different perspective, team and group performance is clearly important in many situations. Industry's answer is to introduce team and group incentives. For reasons that are unclear public employers are reluctant to adopt this strategy. The achievement of team or group goals can always be celebrated.

A proven answer to the 'top down' charge is to introduce multi-rater or 360-degree appraisals. Peers frequently have a better view of an employee's performance than a "boss" who may not actually see much of a subordinate's work. Customers also have a useful view. Perhaps the most useful is a subordinate's view of how well the boss performs. The systems to collect this information are readily available.

Both the review of the failed NSPS and the NAPA review of the DCIPS highlight a solution along with a problem. Both systems are based solidly on an assessment of performance relative to individual goals. That is a proven approach backed by a half century of industry experience. But it takes learned skills to develop meaningful goals and to manage work relative to the goals. It is a process that is ongoing throughout the year. It's taken for granted in companies that are committed to effective planning.

The reports confirm the agencies involved in NSPS and DCIPS were not wholly ready to link those goals to pay increases. That should not be a condemnation of pay for performance. If anything, the focus on individual performance goals addresses many of the critics concerns. They minimize if not eliminate subjectivity. They provide an ongoing, impersonal basis for dialogue between a supervisor and his or her people. That dialogue can and should include team and group goals. And at year-end, the focus is on actual results. All the evidence confirms people perform at higher levels when they work to achieve goals.

Pay is the red flag. It's the reason employees complain. Under the GS system, performance reviews have had no real consequences. Inflated ratings have been the norm. That has to change.



ph44585 on D330-44585-7600 with DISTILLER
VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00088 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT
58031.056

Federal agencies have clearly hit potholes in the transition to pay for performance. Significantly, NAPA's basic conclusion is essentially the same as that reached by the Defense Business Board that reviewed NSPS. Both recommended that the agencies continue to move away from the GS system and switch to pay for performance. Both also focus on implementation issues as the reason problems emerged. Neither report suggests the problems reflect the rejection of the pay for performance philosophy.

For reasons that are not clear, pay for performance is often viewed in isolation. Somehow it's as if an employee is like the donkey motivated by a carrot dangled in front of his face. If he doesn't respond as expected, than the new policy must be a failure. Pay for performance is not that simple.

Yes, federal agencies have experienced implementation problems. In each situation, however, the reasons for those problems could have and should have been avoided. There are also a long list of successful "demos" and independent agencies with pay for performance policies. China Lake is in its 4th decade.

There are similar success stories at the state and local level as well. Charlotte, NC, for example, moved to a banded salary system with pay for performance in 1993. They also have departmental cash incentives with payouts for achieving goals. Charlotte has enjoyed a reputation as one of the best managed cities.

There is no question that money can be an effective motivator. However, the dollars involved in a pay for performance policy are not large enough to drive behavior. For an average employee, the difference in the increase is roughly $25 a week – before taxes. The emphasis on the dollars is misplaced.

In contrast to the image of the donkey – and in some ways contrary to the argument of some critics – pay for performance is not about motivating people to work harder, it's about working smarter. The linkage to planned results sends a clear message that provides a focus for employee efforts. The policy reinforces the importance of performance management along with the idea that good performance is valued.

The critics may argue that there is no evidence that the policy contributes to better performance. However, that ignores the obvious – federal agencies are still struggling to develop methods to measure and track performance. There are very few government jobs where individual performance can be measured.

The pressure to improve government performance is not going to fade away. Research shows employees are rarely empowered to use their full capabilities. The potential for improved performance is substantial. The GS system has been a deterrent. Pay for performance can be a catalyst.

---

[i] Milkovich, George T. and Alexandra K. Wigdor, editors, with Renae F. Broderick and Anne S. Mavor, "Pay for Performance: Evaluating Performance Appraisal and Merit Pay," Committee on Performance Appraisal for Merit Pay, Commission on Behavioral and Social Sciences and Education, National Research Council, National Academy Press, Washington, D.C., 1991.



ph44585 on D330-44585-7600 with DISTILLER
VerDate Nov 24 2008 11:19 Nov 04, 2010 Jkt 058031 PO 00000 Frm 00089 Fmt 6601 Sfmt 6601 P:\DOCS\58031.TXT SAFFAIRS PsN: PAT
58031.057

CHARRTS No.: SG-07-001
Senate Committee on Governmental Affairs
Hearing Date: June 09, 2010
Subject: The National Security Personnel System and Performance Management in the Federal Government
Witness: Mr. James, Jr.
Senator: Senator Voinovich
Question: #1

NSPS Flexibilities

**Question:** When the Department began work on the National Security Personnel System, the System's additional flexibilities were justified as being necessary to confront a new security environment that required the civilian workforce to become more agile, adaptable, and responsive. Do the challenges posed by today's security environment still call for such a civilian workforce? If so, how is the General Schedule system up to the task of properly managing for, and rewarding, outstanding performance?

**Answer:** Yes, today's security environment continues to present challenges that require an agile, adaptable, and responsive civilian workforce. The General Schedule system provides mechanisms for recognizing performance, including lump sum cash awards and increases to base salary in the form of quality step increases. As part of the design and review of the Department's new performance management system, as mandated by the NDAA FY 2010, we are examining whether these authorities are sufficient to respond to today's challenges.

Question: #2

Strengths of NSPS

**Question:** What are some of the strengths of the National Security Personnel System that you would like to see retained under a modified personnel management system at the Department of Defense?

**Answer:** There are two strengths of the National Security Personnel System (NSPS) that I would like to see retained under a modified personnel management system. First, the NSPS tied an individual's duties and responsibilities to the organization's mission and goals. The individual's performance was linked to the success of accomplishing the mission. Second, the NSPS fostered more communications between supervisors and employees, in the form of establishing objectives, discussing progress in meeting those objectives, and requiring annual interim and final reviews annually. These reviews could be tracked, and there was concerted effort on the parts of the Components and organizations to ensure that they were appropriately completed.

ph44585 on D330-44585-7600 with DISTILLER

CHARRTS No.: SG-07-003
Senate Committee on Governmental Affairs
Hearing Date: June 09, 2010
Subject: The National Security Personnel System and Performance Management in the Federal Government
Witness: Mr. James, Jr.
Senator: Senator Voinovich
Question: #3

Classification Appeals

**Question:** Please provide data on classification appeals filed by employees transitioning from the National Security Personnel System to the General Schedule system, including the total number of appeals filed, the distribution of appeals among the service branches and fourth estate entities, and the percentage of appeals that have resulted in the original classification received by an employee being modified. In addition, please provide information on the process used to adjudicate these appeals.

**Answer:**

1) As of July 14, 2010, two classification appeals have been filed by employees transitioning from the National Security Personnel System to the General Schedule system.
2) Both appeals were filed by employees working for fourth estate agencies, one from the Defense Contract Management Agency which was sent directly to the Office of Personnel Management (OPM) and the other from the Department of Defense Office of the Inspector General. The adjudication process has not been completed on either appeal.
3) Due to the fact that the adjudication process is not complete, the Department cannot provide the percentage of the appeals that have resulted in the original classification received by an employee being modified.
4) Regarding the appeals process, an employee who believes his/her position has been improperly classified may file an appeal at any time to the Department of Defense or directly to the Office of Personnel Management (OPM). However, the appeal may not be filed to both DoD and OPM at the same time. If the appeal is filed first with DoD and its decision is unfavorable, the employee can still appeal to OPM. If the appeal is filed first to OPM and an unfavorable decision is rendered, the employee cannot then appeal to DoD.
   The employee may have a representative (designated in writing) help prepare and present the appeal case, but the representative cannot be someone with management or classification authority over the position. The specific filing procedures for DoD and OPM, including fact sheets and frequently asked questions to assist employees in understanding the appeals process, are available on line by accessing the OPM and DoD/CPMS websites.
   DoD CPMS: http://www.cpms.osd.mil/fas/classification/class_filing_appeal.aspx
   OPM: http://www.opm.gov/classapp/fact/MSO-98-3.txt

ph44585 on D330-44585-7600 with DISTILLER

CHARRTS No.: SG-07-004
Senate Committee on Governmental Affairs
Hearing Date: June 09, 2010
Subject: The National Security Personnel System and Performance Management in the Federal Government
Witness: Mr. James, Jr.
Senator: Senator Voinovich
Question: #4

Congressional Notifications

**Question**: Subsection (e) of Section 1113 of the Fiscal Year 2010 National Defense Authorization Act (P.L. 111-84) requires the Secretary of Defense to submit to the appropriate congressional committees, including the Senate Committee on Homeland Security and Governmental Affairs, plans for the personnel management and appointment flexibilities extended to the Department of Defense in subsection (d) of Section 1113 no later than October 28, 2010. During this hearing, you indicated to me that the Department would meet this October deadline, but that rather than providing a plan for implementation of these authorities, the Department would inform the appropriate congressional committees about actions taken in consideration of these new flexibilities. Does the Department of Defense maintain that a report of this nature is consistent with the requirement included in the Fiscal Year 2010 National Defense Authorization Act, which, with respect to a personnel management system, specifically calls for "a plan...which shall not take effect until 90 days after the submission of the plan to Congress (emphasis added)" and, likewise, requires "a plan for the appointment procedures as authorized [by the Act] (emphasis added)"?

**Answer:** The Department will make every effort to meet the statutory deadline in NDAA 2010 to provide plans for the new performance management system and redesigned hiring. However, as stated during testimony, we are working with parties having a vested interest, including management, labor unions, employees, and the Office of Personnel Management to ensure that we engage these parties in identifying key system attributes and design features they believe will best support the Department in accomplishing its mission. This is a key first step in the design of the system. We want to design the new systems in a deliberate manner that takes into consideration the ideas and suggestions of key stakeholders. If the plans are not finalized; we will provide reports at the end of October 2010 on the efforts to date and where we are in developing the plans.

ph44585 on D330-44585-7600 with DISTILLER



58031.060

CHARRTS No.: SG-07-005
Senate Committee on Governmental Affairs
Hearing Date: June 09, 2010
Subject: The National Security Personnel System and Performance Management in the Federal Government
Witness: Mr. James, Jr.
Senator: Senator Akaka
Question: #5

Employees on Pay Retention

**Question:** According to your testimony, thus far, 21 percent of Department of Defense (DoD) employees transitioned from the National Security Personnel System (NSPS) have been placed on pay retention. Please provide an estimate of the total number of employees DoD expects to be placed on pay retention as a result of the repeal of NSPS, broken down by the employees' General Schedule levels and work location.

**Answer:** The Department is monitoring actual transition figures, including the number of employees placed on pay retention. However, whether a transitioned employee is placed on pay retention cannot be forecasted, since the determination is based on application of the General Schedule classification criteria to the individual employee's permanent assigned duties and responsibilities at the time of transition from NSPS. Pay retention is a valuable safeguard for NSPS transitions as well as for many other situations like reductions in force due to base realignments and closures. The governing statute and regulations insulate employees from a pay reduction and provide a mechanism to gradually bring the employees' pay into alignment with GS pay rates for their grade by means of smaller raises than the annual GS adjustment. For that reason, the pay retention law and regulation are designed to normalize their salaries over time by aligning their pay with the grade of the duties performed.

ph44585 on D330-44585-7600 with DISTILLER



58031.061