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Hearing on Department of Defense Implementation of
the National Security Personnel System
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Mr. Chairman, Members of the Committee, I appreciate the opportunity to testify on the design and implementation of the National Security Personnel System at the Department of Defense.

I am the Director of the Human Resources Management Consortium at the National Academy of Public Administration, an independent non-partisan, non-profit organization chartered by Congress to provide “trusted advice” on governance and public management. The views I present today are my own and do not necessarily represent those of the Academy as an institution. I am also the Executive Director of the National Commission on the Public Service Implementation Initiative at the Academy. The National Commission, Chaired by former Federal Reserve Board Chairman Paul A. Volcker, made its recommendations for the reform and renewal of the public service in January, 2003.

We stand at the threshold of an exciting and challenging time in the transformation of the human resource management systems of the federal government – and nowhere is this more true than with respect to the effort underway to modernize the civilian personnel systems of the Department of Defense.

My testimony will address the proposed performance management, appeals and labor relations systems for the Department, and raise some possible approaches for the future.

Performance Management/Performance Based Pay

The National Commission on the Public Service and panels of experts at the National Academy of Public Administration have recommended that the federal government adopt performance management systems.ⁱ

The Academy panels and the Volcker Commission have concluded that pay for performance within a performance management system can enhance employee engagement and morale, organizational improvement, and program results. Pay for performance can have the added benefit of dispelling some of the negative stereotypes that plague federal workers and undermine public confidence in government.

In one respect, DOD is at an advantage compared with other federal agencies. Research has shown that DOD civilian employees have a much stronger sense both of mission and of how their work contributes to that mission than do employees in other departments.ⁱⁱ This not only boosts employee morale, but fosters a culture in which employees already connect their work with organizational goals. This will be of help to DOD as it implements its new performance management system.

Some important groundwork has been laid for the implementation of performance based pay. The Government Performance and Results Act helped agencies to clearly define their missions and goals and think about what was required to achieve those missions.

The Government Accountability (GAO) certainly has led by example in this area and DOD and other executive branch agencies can learn a great deal by their experience and the lessons GAO continues to draw from it. GAO began to lay the groundwork for its performance management system more than 15 years ago when it adopted pay banding. More recently, legislation enacted by Congress has empowered GAO to take additional steps to put a performance based pay system into place.

Among experts, there is a broad consensus about the elements necessary to make performance management systems work. In September 2003, Academy President C. Morgan Kinghorn and Paul Volcker convened a forum titled “Performance-Based Pay in the Federal Government: How do we get there?” The forum brought together stakeholders, public administrators and government leaders, including OMB Deputy Director for Management Clay Johnson, Deputy OPM Director Dan Blair, and GAO Principal Deputy Gene Dodaro for the purpose of discussing and articulating the elements of a successful system.

The participants agreed on several factors that had to be recognized as central to the adoption of performance based pay in the federal government:

- It takes time.
- It is complicated.
- It will require a culture change.
- It requires adequate funding to be fully effective.

The elements the presenters and participants identified as critical to an agency's successful implementation of a performance based pay system were:

- appraisal processes that are timely, transparent and linked to meaningful distinctions in pay
- committed and highly involved leadership
- ongoing feedback from those who are involved and affected
- a system for effectively dealing with poor performers
- training and evaluation of managers and supervisors that holds them accountable for how well they manage for performance
- appropriate and effective employee training
- an organizationally integrated performance management system which aligns organizational goals with individual performance
- reasonable safeguards including:
 - transparency
 - accountability
 - internal checks and balances
 - peer review
 - ongoing communication and consultation among all system stakeholders

I have provided the forum summary report: *Performance Based Pay in the Federal Government – How do we get there?* for the Committee's information and for the hearing record. It also can be found on the Academy's website.ⁱⁱⁱ

There is broad and clear recognition that all stakeholders in a performance based pay and performance management system must be well trained, and repeatedly trained, for the new systems to be successful.

Managers especially will be key to the success of the new systems, an issue that an Academy panel addressed in a series of five comprehensive reports on The 21st Century Federal Manager published between 2002 and 2004.^{iv} These reports examine the new and growing challenges that federal managers face in the 21st century. They also identify and address the new competencies that managers must have to provide the leadership and direction critical to fulfilling government's fast changing needs, and they spell out the price of poor leadership.

The Office of Personnel Management is currently considering the new competencies that 21st Century leaders need to be successful, and this will be an important step in the transformation of human resources management at DOD and governmentwide.

Appeals

A key to the success of an appeals system is that it not only be fair, but that those affected by it perceive it to be fair. We addressed these issues at a forum on the federal appeals system convened by the Academy and the Commission Implementation Initiative in September 2003. The speakers at this forum were Chuck Hobbie, Deputy General Counsel of the American Federation of Government Employees; Ron Sanders, OPM Associate Director; and Joe Swerdzewski, former General Counsel of the Federal Labor Relations Authority. The forum participants were a diverse group of federal officials, congressional staff, academics and other interested private sector stakeholders. As moderator, I posed several questions to the group at the end of the discussion. One was: "What set of principles should underlie any federal employee appeals system?" The expressed consensus of the group was that there are four key principles:

- fair, including the perception of being fair
- fast and final action with due process
- protection of merit system principles – to preserve the core right so employees and the general public interest
- consideration of protecting the agency's mission^v

Those who designed the proposed NSPS appeals system intend it to be fast and final, and believe it preserves due process and merit system principles. It clearly takes protection of the agency's mission into account. Employee representatives, on the other hand, have raised strong concerns about whether due process is appropriately preserved and to what degree the mission of the Department will be given deference versus the rights of the employees. They do not perceive the proposed system as being fair.

One positive remedial step could be for the DOD, in collaboration with its stakeholders, to clearly define the standards the National Security Labor Relations Board (NSLRB) will apply when weighing the need to fulfill the department's mission. Another would be for DOD to develop standards for the merit selection of the individuals serving on the NSLRB. The merit selection system under which Administrative Law Judges are certified might serve as a model. Likewise, consulting with employee representatives in determining how the mission needs of the Department are to be taken into consideration by the NSLRB and the identifying of Mandatory Removal Offenses could ease employee concerns at this critical time, without undermining the needs of the Department.

Labor Relations

Labor relations have been the area of greatest challenge in the DOD transformation. The legislation authorizing the NSPS anticipated this dynamic and required ongoing consultation between those designing the new personnel system and labor representatives.

The Committee is hearing from the DOD, OPM and union leadership on the details of how this consultation process was carried out preceding the issuance of the proposed regulations. The bottom line is that DOD and OPM believe they met the requirements Congress set out, and the employee unions believe otherwise.

As Senators Susan Collins and Carl Levin and other Members wrote to Secretary England a year ago, "the involvement of the civilian workforce in the design of the new system is critical to its ultimate acceptance and successful implementation."^{vi} If DOD leadership is at conflict with its own employees, implementation of the NSPS is at risk, they recognized.

The “meet and confer” period required by the law is now underway. This is an opportunity for all involved to consider how this next period of interaction can be conducted so that all parties feel they have made a committed effort, and that a committed effort has been made in turn. Changing perceptions may well require going beyond the specific requirements of the law.

The Volcker Commission made recommendations in this area that could be of value for the future. The Commission wrote its report during the creation of the Department of Homeland Security. Commission members were concerned about the disagreement that accompanied the creation of the Department and cautioned:

[This controversy] makes clear that labor-management relations will pose a challenge to reform.... What is clear is that a new level of labor-management discourse is necessary if we are to achieve any serious reform in the civil service system.... The commission believes that it is entirely possible to modernize the public service without jeopardizing the traditional and essential rights of public servants.... Engaged and mutually respectful labor relations should be a high federal priority.

In calling for a “new level of discourse” the Volcker Commission suggested that Congress, executive branch leaders and employee representatives consider several existing models for public sector labor management cooperation. These included collaboration by former Governor, now Senator, George Voinovich and the Ohio American Federation of State, County and Municipal Employees. Former Indianapolis Mayor Steven Goldsmith is noted for his successful collaboration with city union leaders and has written about the lessons he took away from that experience and similar situations. Former President Clinton established labor-management councils in federal departments and IRS Commissioner Charles Rossotti used the 1998 IRS reform legislation to forge a constructive labor-management relationship at the IRS. Observers of labor-management practices at the U.S. Postal Service believe that both relations and productivity at the department have been enhanced by the management’s inclusive approach to working with its unionized employees

The common characteristic of these examples is that they were mutual efforts that went the extra mile to enhance communication and consensus.

They may provide some models that will enhance the Department's ability to successfully implement the NSPS.

In the end, it is important that there be a common commitment to the goals of the NSPS: a highly engaged, well qualified workforce, working in concert with DOD leadership to achieve the Department's important public mission.

Looking Ahead

Employee representatives have expressed concern that many additional details of the new system are undefined. The question is how to balance DOD's desire to retain flexibility in implementing the new system so that improvements can be made as it becomes operational, with the employees' interest in participating in system elements that will have a significant impact on their employment. One answer is for the DOD and OPM to continue to collaborate with stakeholders in the design of the pay for performance and other NSPS elements. As noted earlier, there is a consensus that ongoing, regularized communication and feedback among all stakeholders is critical to the successful operation of a performance based pay system.

The adoption of a governmentwide framework for personnel reform would help to address this issue for all federal agencies, and for all stakeholders.

Paul Volcker and Comptroller General David Walker co-hosted a forum a year ago to explore this concept.^{vii} The consensus of the participants – a broad group representing employees at all levels, policymakers, academics and nonprofit organizations – was that such a framework should be established. As discussed at the forum, the framework should include values, principles, and processes that must underlie all federal personnel systems. For example, the framework could specify the processes that Congress believed should be part of all federal performance management systems. The Academy is continuing to work on this concept, including a project to validate a model framework developed by a working group.

Finally, one point repeatedly stressed by the members of the Volcker Commission was the critical importance of Congressional oversight. This hearing is just what they believed would be necessary and I am sure they

would strongly encourage the Committee to continue to play an ongoing and close oversight role.

Conclusion

Implementation of these new systems necessarily goes hand in hand with a maturing of the view of the federal workforce and the relationship among front-line workers, managers, executives and political leadership. As one Academy study puts it:

Paternalistic cultures are giving way to values that reflect greater equality and adult relationships in the workplace. These changes require employees to take more responsibility for their own competence, performance, and development. Meanwhile, executives and managers at all levels must take responsibility for providing challenging work opportunities and creating a culture for learning, teamwork, and accountability for results.^{viii}

This change is challenging but is full of opportunity. It is widely recognized as being necessary for the federal government to meet its 21st century responsibilities.

ⁱ Urgent Business for America: Revitalizing the Federal Government for the 21st Century, Report of the National Commission on the Public Service, January 2003.

Recommending Performance-Based Federal Pay, a report by the Human Resources Management Panel at the National Academy of Public Administration, May 2004.

ⁱⁱ Paul C. Light, The Troubled State of the Federal Public Service, Washington: Brookings Institution, June 27, 2002.

ⁱⁱⁱ The Academy's website is www.napawash.org. The report Performance Based Pay in the Federal Government: How do we get there?, additional

information about the National Commission on the Public Service and the Commission Implementation Initiative at the Academy can be found under “Special Initiatives.”

^{iv} The 21st Century Federal Manager, Volumes 1-5, Human Resources Management Panel, National Academy of Public Administration, 2002-2004.

^v Conversations on the Public Service: Forum on the Federal Appeals System, National Academy of Public Administration, National Commission on the Public Service Implementation Initiative, February 2004

^{vi} Tim Kauffman, “DOD Personnel Plan Under Fire from Lawmakers, Unions,” *Federal Times*, March 8, 2004.

^{vii} Human Capital: Principles, Criteria and Processes for Governmentwide Federal Human Capital Reform, U.S. Government Accountability Office and the National Commission on the Public Service Implementation Initiative, November 2004, GAO-05-69SP.

^{viii} Summary of Human Resources Management Research by the National Academy of Public Administration, Center for Human Resources Management, for the National Commission on the Public Service, July 2002.