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**DEPARTMENT OF DEFENSE NATIONAL
SECURITY PERSONNEL SYSTEM**

HEARING

BEFORE THE

READINESS SUBCOMMITTEE

OF THE

COMMITTEE ON ARMED SERVICES
HOUSE OF REPRESENTATIVES

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**DEPARTMENT OF DEFENSE NATIONAL SECURITY
PERSONNEL SYSTEM**

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
READINESS SUBCOMMITTEE,
Washington, DC, Wednesday, April 1, 2009.

The subcommittee met, pursuant to call, at 2:45 p.m., in room 2118, Rayburn House Office Building, Hon. Solomon P. Ortiz (chairman of the subcommittee) presiding.

OPENING STATEMENT OF HON. SOLOMON P. ORTIZ, A REPRESENTATIVE FROM TEXAS, CHAIRMAN, READINESS SUBCOMMITTEE

Mr. ORTIZ. This hearing will come to order. We want to welcome you to today's Readiness Subcommittee hearing on the Department of Defense's (DOD) National Security Personnel System (NSPS). I want to thank our witnesses for making the time to appear before us today. Welcome. We are very happy to have you with us.

Two years ago the subcommittee held its first oversight hearing on the Department's new personnel system, NSPS. It was clear from that hearing and formal studies, it has gotten mixed reviews. The intent of NSPS was to help DOD respond to its 21st century resources needs. Two years ago I asked the question: Was it the right fix? That question is still valid today.

I am pleased that the Department has now undertaken a comprehensive review of NSPS. This review response is to a letter that Chairman Skelton and I wrote asking that Secretary Gates discontinue converting employees to the new system until the administration and Congress can properly address the future of NSPS.

Since the Department has only begun its review, I understand that our DOD witnesses will not be able to give us very many details. However, I do hope that DOD will share with us the guiding principle that would be followed in undertaking this view. And all our witnesses should be able to provide the subcommittee with information on the challenges and concerns that must be addressed in any review of NSPS. This includes such issues as hiring, fairness of the performance rationing ratings, payment of salary increases versus bonuses, employee acceptance and managers' accountability.

We also should take a critical look at the General Schedule (GS) system and incentives provided under that system. During the campaign, President Obama indicated that he would consider either a repeal of NSPS or its complete overhaul. This subcommittee will be actively involved in any proposals related to NSPS.

We also will look carefully at the civilian personnel management system in general since DOD's employees are 26 percent of the Federal workforce. Indeed, staff has been conducting a several month long analysis of such system.

Today's hearing will help lay the groundwork for any action that needs to be taken following the results of the NSPS review and the President's direction.

Let me go back for a minute to the time of the enactment of NSPS in the year 2003. At that time Congress was told that a new system was necessary to provide the Department with greater flexibility in hiring employees. This would respond to the number one complaint of Federal managers: that is, the need to fix the complex and lengthy hiring process.

In fact, the Merit Systems Protection Board, which is represented by one of our witnesses today, has stated that the Defense Department could be the model for reforming the government's hiring process. However, DOD has made no effort to tackle what I consider to be one of the biggest challenges faced by the Department: attracting qualified new people to work for the military services and the defense agencies.

Since passage of NSPS, the Department has focused its efforts on its own unique pay-for-performance system. But should each agency be allowed to grade its own personnel system, which appeared to be the trend of the last administration? I wonder if that is good for the employees and the government as a whole.

Even within the Department there are now three separate personnel systems—NSPS, GS and wage grade—and I am asking should this continue? Of course, many employees that I have heard from, the answer is clear: Stop NSPS and return to the GS system.

Giving incentives for good performance and improving hiring were key reasons for the creation of NSPS. However, Congress already has provided numerous flexible authorities to all government agencies to reward performance in the GS system. These were never used.

Today we will hear from a variety of witnesses. No hearing on NSPS is complete without a hearing from DOD. None of the political appointees from the Bush administration who pushed for NSPS are still around. So today we will hear from the individuals tasked with the challenge of making it work. They are always the most knowledgeable about NSPS.

We have mandated that the Government Accountability Office (GAO) conduct a thorough review of NSPS to ensure that adequate safeguards are in place to ensure fairness. We will hear about the most recent report and GAO, which has its own unique pay-for-performance system, has found numerous problems with the DOD system.

I already have mentioned the Merit Systems Protection Board, an agency that we rarely hear from. The Board has done numerous studies on the government's hiring system. They recognize that hiring is critical to any discussion on civilian personnel management. And they have put forth numerous recommendations on reforming the Federal hiring process.

Finally, the Federal Managers Association represents the users of NSPS. As managers, they have some very strong views on NSPS

and what it will take to get it fixed or what we should do if NSPS is eliminated and we return to the GS system. I look forward to your testimony.

[The prepared statement of Mr. Ortiz can be found in the Appendix on page 37.]

Mr. ORTIZ. But before starting, I ask unanimous consent to include the statements for the record for the National Federation of Federal Employees, the International Federation of Professional Technical Engineers and the American Federation of Government Employees.

[The information referred to can be found in the Appendix beginning on page 105; a statement from the International Federation of Professional Technical Engineers was not available at the time of printing.]

Mr. ORTIZ. And I would like to turn to my good friend from Virginia, Mr. Forbes, for any statement that he would like to make. Mr. Forbes.

**STATEMENT OF HON. J. RANDY FORBES, A REPRESENTATIVE
FROM VIRGINIA, RANKING MEMBER, READINESS SUB-
COMMITTEE**

Mr. FORBES. Thank you, Mr. Chairman. As you know, this hearing is important because it provides us an opportunity to gather relevant information and perspectives about the future of the National Security Personnel System. I can think of few programs this subcommittee has dealt with that were more controversial, more revolutionary, or more challenging to implement than NSPS. So I agree with the President's directive to the Department of Defense to conduct a comprehensive review of NSPS.

The Congress, primarily on initiatives originating in this subcommittee, made significant changes to NSPS in the 2008 Defense Authorization Act, and I believe we will again be faced with more decisions regarding NSPS once the recommendations and findings of the Department's review are done and acted upon by the President. Until we know and have had a chance to analyze what the President proposes, I would caution the subcommittee from taking action to significantly change NSPS.

Paying employees for the quality of their work is an underlying principle of most businesses and it should be an underlying principle in government. This is one of the underlying principles of NSPS, and I agree with this principle. The belief that people should be paid based on what they contribute is why so many are rightfully upset that American International Group (AIG) executives took on millions of dollars while their company was driven into the ground. The soundness of this principle is why the President has challenged our nation to provide extra pay to outstanding teachers while insisting that we stop making excuses for the bad ones.

However, based on the reports of GAO and others, the implementation of a pay-for-performance system has been problematic. As we get to the questioning of our witnesses today, I would like to further explore with them what needs to be changed in NSPS to improve the pay-for-performance system and establish the credibility of it in the perception of NSPS managers and employees.

I am also interested in what alternatives the Department has to implementing the principle that we should reward those who are outstanding and ensure the few bad apples are removed from the important work that is nothing less than protecting our national security.

So, Mr. Chairman, I join you in welcoming our witnesses and I look forward to their testimony. And I yield back the balance of my time.

Mr. ORTIZ. Thank you.

[The prepared statement of Mr. Forbes can be found in the Appendix on page 41.]

Mr. ORTIZ. Today we are very fortunate to have a panel of distinguished witnesses who will discuss the Department of Defense National Security Personnel System. Mr. Brad Bunn is the Program Executive Officer, National Security Personnel System, Department of Defense; Ms. Brenda Farrell, Director of Defense Capabilities and Management, Government Accountability Office; Mr. John L. Crum, Ph.D., Director, Office of Policy and Evaluation, United States Merit Systems Protection Board; and Mr. Darryl Perkinson, National President, Federal Managers Association.

Without objection, all the written testimony will be included in the record. And thank you again for giving us this information that we so much would like to hear about today.

Mr. Bunn, you are welcome. And we look forward to your opening statements.

STATEMENT OF BRADLEY BUNN, PROGRAM EXECUTIVE OFFICER, NATIONAL SECURITY PERSONNEL SYSTEM, DEPARTMENT OF DEFENSE

Mr. BUNN. Mr. Chairman, Congressman Forbes, distinguished members of the subcommittee, thank you for the opportunity to speak with you today about the National Security Personnel System at the Department of Defense. NSPS implementation remains a critical area of focus for the Department. As of today, we have over 200,000 employees operating under the system.

Today I would like to update you on our implementation, the challenges we have encountered and what is being considered in the upcoming comprehensive review of the program. We are in our third year of implementation and, like any major change initiative, we have had our share of both challenges and successes. As we consider how to best move forward with NSPS, I can assure you that the Department is committed to operating fair, transparent and effective personnel systems for our civilian workforce.

In November of 2003, Congress authorized DOD to develop a more flexible civilian personnel management system to improve our ability to execute our national security mission. In November 2005, after a comprehensive design process, the Department and the Office of Personnel Management (OPM) jointly published final NSPS regulations. In April of 2006, we began our phased implementation of the system.

Today the total number of NSPS employees is approximately 205,000. Because the system may only be extended to our white collar workforce, and based on our policy to convert only non-bar-

gaining unit employees, this represents most of the population that would come under the system.

Before organizations converted, there was a comprehensive and extensive initiative to train senior leaders, managers, supervisors and employees on the core elements of NSPS on soft skills with a focus on performance management. This training represents one of the most extensive civilian-focused initiatives ever undertaken by the Department.

We recently announced that we are delaying further conversions of organizations into NSPS pending the outcome of the upcoming review. During this review, organizations and employees already covered by NSPS will continue to hire, assign, promote, reward, and carry out other personnel actions necessary to accomplish their missions.

Before I address the review, let me briefly describe where we are with implementation and some of the key issues we are facing. The original statute was enacted in November of 2003, and provided the Secretary of Defense and the Director of OPM the authority to establish a flexible and contemporary civilian personnel system to recognize the unique role that our civilians play in supporting national defense, while adhering to the fundamental tenets of the civil service system; namely, the merit principles.

The Department and OPM jointly published those regulations in November of 2005. In the National Defense Authorization Act (NDAA) for fiscal year 2008, Congress made significant changes to the underlying NSPS statute, including repealing most of the labor relations adverse actions and appeals and a reduction in force provision. The core features of NSPS that we actually implemented were left essentially intact, including the pay banding and classification structure, compensation flexibilities, and the performance management system.

The Duncan Hunter NDAA for fiscal year 2009 further clarified language regarding the staffing and employment provisions of NSPS. And over the last year the Department and OPM revised the NSPS regulations to conform to these statutory requirements.

This past January, the Department completed its third cycle under the NSPS pay-for-performance system. Resulting in performance evaluations—

Mr. ORTIZ. I think your mike is gone. Try the other mike to see if it works.

Mr. BUNN. Last fall over 1,600 NSPS pay pool panels convened to review and finalize performance appraisals and allocate performance-based salary increases and bonuses. Under NSPS, employees are evaluated on a five-level rating system with one being unacceptable and five representing role model performance.

For the fiscal year 2008 performance cycle, the average performance rating was 3.46. The average performance-based salary increase was 3.67 percent with an average cash bonus of 1.94 percent. All NSPS employees rated above unacceptable received an additional general base salary increase of 1.74 percent and an average locality increase of 1 percent.

The average total salary increase for NSPS employees in January of 2009 was 6.41 percent. To ensure fairness in the system, a number of safeguards were built into the process, including uni-

form performance evaluation criteria, multiple-level reviews of recommended ratings, shared distributions and payout determinations, prohibition on the practice of forced distribution of ratings across the five levels and the employees' right to challenge their performance rating through a formal reconsideration process.

NSPS represents a significant change, particularly in the area of pay and performance management. Recognizing that this kind of cultural shift takes time, we have been paying close attention to the perceptions and attitudes of our workforce to assess our implementation and the design with an eye towards improving the system.

Some common themes, both positive and negative, have emerged. What we know is that NSPS organizations are making meaningful distinctions in performance and associated rewards. We are also seeing improvement in communication between employees and supervisors and better alignment between performance plans and organizational mission and goals.

NSPS employees are generally positive about certain aspects of the performance management system, including the linkage between their performance plans and the organization's mission, the linkage between pay and bonuses and their performance. NSPS employees overall are generally more satisfied with their pay and the management of the organizations than their non-NSPS counterparts, and they are no more likely than non-NSPS employees to leave DOD for another job. These are results from our status of forces civilian survey that we have been taking over the past several years.

However, other indicators are less positive. Employees and supervisors are struggling with the more stringent performance measures used in the evaluation process and employees are questioning whether the ratings are fair. Employees and supervisors, particularly those who are new in the system, often struggle to define measurable results-oriented job objectives and have difficulty in writing narrative assessments.

We have also heard concerns from employees and supervisors about the increased administrative requirements associated with the performance management system and the transparency of the pay pool process, including whether forced distribution is occurring despite our prohibition on the practice.

Both the Government Accountability Office and OPM in their formal assessments of NSPS highlighted many of these issues and pointed out that these kinds of reactions and perceptions are typical of broad change in management initiatives like NSPS. They noted that when there is a major change to a personnel system, employee attitudes and perceptions decline initially before employees fully understand and accept the new system. They also recognize that it generally takes three to five years for a new personnel system to gain acceptance.

However, the Department has been taking steps to address many of these concerns, including expanding our pay pool training; offerings to include employees and supervisors; enhancing our online training tools and automated performance management systems; revising our policies to require organizations share aggregate pay pool results with the workforce; requiring defense components to

conduct a thorough analysis of pay pool results to identify and examine and remove barriers to similar rating and payout potential for demographic and other groups in the workforce, apart from differences based on individual performance or material job differences; and developing guidance for organizations designed to ensure that forced distribution of ratings is not occurring in the rating and payout process.

On March 16 the Department and OPM announced a review of NSPS to assess whether the program is fair, transparent and effective. In addition, the Department decided to delay any further conversions of organizations to NSPS pending the outcome of this review. I can assure you that Deputy Secretary Lynn recognizes that there are a variety of viewpoints regarding NSPS, and is committed to a thorough examination that includes outreach to Congress, other Federal agencies, personnel management experts, labor organizations, employees and other key stakeholders.

You asked that we discuss what is being considered in the program review. We expect that it will include a review of the underlying design principles of NSPS, the current policies and regulations and the extent to which the system is achieving its goals. We expect the review to also focus on key issues of fairness and transparency, not only in the design but also in the implementation. It is likely that the review will include visits to organizations operating under NSPS to speak directly to employees, supervisors and senior leaders who are operating under the system to gain their perspective.

In addition to examining the various reports and assessments already conducted, the team will also obtain views on NSPS from labor unions, managers and professional associations, employee groups, Members of Congress and their staff, and recognized experts in personnel management. The goal is to obtain an objective, thorough assessment of the program resulting in recommendations to the Deputy Secretary and the Director of OPM on a way forward for NSPS.

Mr. Chairman, we look forward to continuing to work with this committee on the way forward for NSPS. And thank you for your ongoing support for our DOD civilian workforce. I look forward to your questions.

Mr. ORTIZ. Thank you so much.

[The prepared statement of Mr. Bunn can be found in the Appendix on page 43.]

Mr. ORTIZ. Ms. Farrell.

STATEMENT OF BRENDA S. FARRELL, DIRECTOR, DEFENSE CAPABILITIES AND MANAGEMENT, GOVERNMENT ACCOUNTABILITY OFFICE

Ms. FARRELL. Thank you, Mr. Chairman. Chairman Ortiz and members of the subcommittee thank you for the opportunity to be here today to discuss GAO's most recent report on the implementation of DOD's new human capital system for managing civilian personnel, the National Security Personnel System.

It is important to note that strategic human capital management remains on GAO's high-risk list that was updated in January 2009. The area remains high risk because of the continuing need for a

governmentwide framework to advance human capital reform to ensure the Federal Government civilian workforce can respond to the challenges of the 21st century.

NSPS represents a huge undertaking for DOD, given its massive size and geographically and diverse workforce. Importantly, NSPS could have far-reaching implications not just for DOD but for civil service reform across the Federal Government. While GAO supports human capital reform in the Federal Government, how such reform is done, when it is done and the basis upon which it is done can make all the difference in whether such efforts are successful.

Specifically, we have noted that Federal agencies must ensure that performance management systems contain appropriate internal safeguards. We have developed an initial list of safeguards based on our extensive body of work reviewing performance management practices by leading public sector organizations.

In 2008 Congress directed GAO to evaluate, among other things, annually for three years, the extent to which DOD implemented internal safeguards as specified in NSPS law. Today I am here to discuss the finding and recommendations in the first of these reports. Specifically, my statement focuses on two areas: one, the extent to which DOD has implemented safeguards to ensure the fairness, effectiveness and credibility of the new system; two, how the DOD civilian workforce perceive NSPS and what actions DOD has taken to address these perceptions.

First, while DOD has taken steps to implement internal safeguards to ensure the new system is fair, effective and credible, we found the implementation of three of the safeguards could be improved. For example, DOD does not require a third party to analyze rating results for anomalies prior to finalizing the ratings. And thus it does not have a process to determine whether the ratings are nondiscriminatory before they are finalized. Without a predecisional analysis, employees may lack confidence in the fairness and credibility of NSPS.

To address this finding, GAO recommended that DOD require a predecisional demographic and other analysis. However, DOD did not concur, stating that a postdecisional analysis is more useful. GAO continues to believe that our recommendation has merit.

Second, although DOD employees under NSPS responded positively regarding some aspects of performance management, DOD does not have an action plan to address generally negative perceptions of employees under NSPS. According to DOD's surveys of civilian employees, generally employees under NSPS are positive about some aspects of performance management, such as receiving feedback and linking pay to performance.

However, employees who had the most experience under the new system showed a negative movement in their perceptions. For example, the percent of NSPS employees who believe NSPS will have a positive effect on DOD's personnel practices declined from an estimated 40 percent in 2006 to 23 percent in 2007.

Our ongoing work is reviewing DOD's latest survey results. Some negative perceptions also emerged during discussion groups that GAO held. For example, employees and supervisors were concerned about the excessive amount of time required to navigate the process. While it is reasonable for DOD to allow employees some time

to accept NSPS, not addressing persistent and negative employee perceptions could jeopardize employee acceptance and successful implementation of NSPS.

As a result, GAO recommended that DOD develop and implement an action plan to address employees' concerns. DOD partially concurred with GAO's recommendation, but has yet to develop an action plan.

In summary, we recognize that DOD faces many challenges in implementing the new system. NSPS is a new program and organizational change requires time to gain employees' acceptance and, most importantly, trust.

Moving forward as DOD and OPM embark on a study of NSPS, DOD has a unique opportunity to consider our previous recommendations as well as all of the safeguards key to ensuring that performance systems in the government are fair, credible, and effective.

Mr. Chairman, that concludes my opening remarks. I will be happy to take questions when you are ready.

Mr. ORTIZ. Thank you.

[The prepared statement of Ms. Farrell can be found in the Appendix on page 57.]

Mr. ORTIZ. Dr. Crum.

STATEMENT OF JOHN L. CRUM, PH.D., DIRECTOR, OFFICE OF POLICY AND EVALUATION, U.S. MERIT SYSTEMS PROTECTION BOARD

Dr. CRUM. Good afternoon, Chairman Ortiz, Ranking Member Forbes, and members of the subcommittee. Thank you for the opportunity to testify today regarding the challenges related to recruiting and hiring candidates for Federal civilian jobs.

U.S. Merit Systems Protection Board (MSPB) conducts independent studies of Federal civil service systems to determine the workforce is managed under the merits principles and free from personnel practices. In doing so we have identified a set of key challenges the government faces in terms of recruiting and selecting the next generation of Federal employees.

The research MSPB has conducted on Federal hiring and the recommendations we have offered to the President and Congress are particularly relevant to discussions regarding the National Security Personnel System. In fact, DOD has cited many of the same challenges we have seen in other agencies as reasons for needing to establish new hiring flexibilities.

Our studies have shown that there are several key barriers that have often prevented qualified applicants from seeking employment with the Federal Government. These include the length of the process, the complexity of the process, the use of ineffective candidate assessment tools, the absence of an effective marketing strategy, the lack of human resources and supervisory expertise and training in these areas, and the fragmented hiring approach used by many different Federal agencies.

I will briefly discuss these issues in turn. First, with respect to the length of the hiring process, MSPB research has shown that it is not uncommon for successful candidates to wait five months or

more to receive job offers. Of course the longer the process takes, the more likely attrition is likely to occur.

The second barrier to effective recruiting and selecting a high-quality workforce is the complexity of the process. Decentralization in the hiring process has added to the complexity because there is no standard application for Federal employment.

A third issue of concern regarding the Federal Government's ability to hire a high-quality workforce is how Federal employers assess the relevant qualifications of job applicants. The assessment tools many agencies use are simply not effective predictors of assessing a job.

Fourth, the Federal Government often fails to market itself effectively. Vacancy announcements are often poorly written, difficult to understand, and filled with jargon and unnecessary information. Consequently, many announcements can actually discourage potential applicants from applying for Federal jobs.

The fifth area of concern is the current expertise of Federal human resources staffs and selecting officials. Previous Federal downsizing efforts resulted in the loss of human resource institutional knowledge that has not yet been fully restored. Hiring officials often do not have the knowledge they need to effectively carry out their role in the hiring process. This lack of expertise can create redundancies and bottlenecks.

Finally, the Federal Government has moved toward a decentralized hiring process and the proliferation of human resource flexibilities and appointing authorities. The benefit of this approach is that agencies may tell their hiring authorities to better seek their mission needs. However, it also results in fewer economies of scale across the government, increased competition among agencies, and increased confusion among applicants as to why agencies use different hiring procedures. All these factors can affect merit principles and the ability of individual agencies to hire high-quality applicants.

The MSPB offers several recommendations to guide, reform, and improve the Federal hiring process. We believe these recommendations would be relevant toward the improvements NSPS is also seeking in its hiring process.

First, agencies should manage hiring as a critical business process, not an administrative function that is relegated solely to the human resources staff.

Second, agencies should evaluate their own internal hiring practices to identify barriers to high-quality, timely, and cost-effective hiring decisions. The MSPB is in the process of performing its own hiring makeover to identify redundant and unnecessary steps and to improve our communications with applicants throughout the process. Many agencies would probably be surprised to see that many of the barriers they face were self-imposed.

Third, we recommend that agencies, with the assistance of OPM, employ rigorous assessment strategies that emphasize selection quality, not just the cost. In addition, we recommend that agencies implement sound marketing practices and better recruitment strategies, improve their vacancy announcements and communicate more effectively with applicants. These reforms should encourage

applicants to await a final decision rather than to abandon the Federal job search in favor of employment elsewhere.

Also we recommend that agencies prepare the human resources staffs and selecting officials to carry out the full range of services necessary to implement an efficient recruitment and hiring system. When DOD began implementing NSPS, the Department put significant resources on training human resources (HR) staffs, managers and employees on the new pay-for-performance processes. If agencies devoted similar resources to ensuring their HR staffs and managers are prepared to carry out their hiring duties, this would greatly reduce bottlenecks in the process.

Agencies should take the majority of these steps without having to change existing rules and regulations. Implementing these recommendations should help agencies ensure that they are hiring qualified employees in a timely manner, from all segments of society, after fair and open competition, while treating applicants fairly and equitably as described by the Merit Systems' principles.

Again thank you, Mr. Chairman, for the opportunity to appear this afternoon and I would be happy to respond to questions from you or other members of the subcommittee.

Mr. ORTIZ. Thank you.

[The prepared statement of Dr. Crum can be found in the Appendix on page 77.]

Mr. ORTIZ. Mr. Perkinson.

**STATEMENT OF DARRYL PERKINSON, NATIONAL PRESIDENT,
FEDERAL MANAGERS ASSOCIATION**

Mr. PERKINSON. Chairman Ortiz, Ranking Member Forbes, and members of the subcommittee, my name is Darryl Perkinson, and I am here today representing the over 200,000 managers and supervisors in the government in my role as the National President of the Federal Managers Association (FMA). Currently I serve as the nuclear training manager at the Norfolk Naval Shipyard. I recently completed 29 years of service with the Navy, and the last 23 in management. Please keep in mind that I am here on my own time and my own volition representing the views of FMA and do not speak on behalf of the Department of Defense.

Throughout my career I have spent time in three separate pay systems: wage grade, General Schedule (GS) and now the National Security Personnel System. Over the past 18 months I have been involved with NSPS as a rating official and an employee being rated. Nearly all of FMA's DOD members are now operating under NSPS.

As stakeholders are the ultimate success or failure of this system, we appreciate the opportunity to appear before you today. The face of America's workforce is changing. A model once attracted for employing the most talented members of the workforce, the civil service now seems unreflective of the expectations of today's job seekers. The current General Schedule pay system and performance review methods are antiquated. FMA managers believe a switch to pay-for-performance is necessary to compete with the private sector and also to encourage and reward high performance. The time for rewarding employees simply for longevity has passed, and many managers want to be rewarded for the job they do.

We are realizing, however, that NSPS is not delivering on its promises. The implementation of NSPS has caused a fundamental shift in culture at DOD, a shift for which our members were not adequately prepared. Going into the system, the biggest concern among our members was how the funds in the pay pools would be distributed.

In 2007 Congress determined that all NSPS employees rated above unsuccessful must receive no less than 60 percent of the General Schedule raise appropriated by Congress. It is absolutely critical that an employee rated a three or above receive no less than the General Schedule pay raise. Issues of fairness and low morale will certainly surface if valued performers were to receive pay raises lower than their GS counterparts. Avoiding this situation is necessary to promote confidence in the system.

We are also finding there is a lack of concrete business rules that allow for a transparent and fair deployment for pay-for-performance. We have heard several reports of the pay pool panels being out of touch with objectives and job functions of the employees they are rating. If the panel is the ultimate authority on the final evaluation and is able to adjust the supervisor's rating, employees should have access to their evaluation before the panel engages in that review.

We have heard reports of great pressure from the panels to lower ratings, especially in the cases of poorly written self-assessments, despite claims from DOD leadership that this should not occur. The pay pool panels heavily rely on one's written assessment, even though these evaluations are not required.

The panels are also too focused on the impact they have on the share value. The sole purpose of the pay pool panel should be to ensure fairness, transparency and consistency exists in the system. This is an issue I personally experienced. During the last cycle I rated seven employees and the sub-pool panel took particular issue with the rating of one of them, mostly because they did not feel his self-assessment was up to snuff despite my repeated claims that he was my "go to" person. In the end the panel won out, and I do not feel that this employee was properly rewarded.

DOD currently employs workers enrolled in three different pay systems. This is simply unacceptable. The problem is exasperated when raises among equally performing employees differ. It is the recommendation of FMA that DOD establish cohesion within the Department in order to foster a sense of equality among the workforce.

Many members of FMA are calling for us to return to the General Schedule system. However, this is not as easy as one might think. First and foremost, we must ensure employees' pay is protected. Employees who excel under NSPS and who were appropriately rewarded by increases in salary beyond the GS schedule scale should not be penalized by losing current pay or eligibility for future pay raises. Given that the average pay raises under NSPS have far exceeded the GS raises, many employees are now a GS level or two above where they were when they entered NSPS, sometimes without added responsibility.

We must ask ourselves what the options are for these employees, and I lay out some suggestions in my written testimony. I also dis-

cuss several performance awards that are available to GS employees that we feel have been underutilized. We are encouraged the Department heeded calls to halt further implementation of NSPS until an independent review of the system could take place. While the details of this process are unknown, we strongly suggest employee groups, both managerial and unions, be invited to participate. The unique experience of these employees allows them to convey what is working, what is not, and what is actually going on at the ground level.

Any pay system, whether it be NSPS, General Schedule, or something entirely different must adhere to certain principles. As Congress debates where to go with the pay system at DOD, I include many suggestions for improvements in my written statement, including adherence to merit principles, adequate funding for performance awards and engagement between employees and managers. It is imperative that any system stand by the principles of objectivity and transparency. We must take a cautious and deliberate path as we move forward.

Thank you for this opportunity to appear before you today. And I am happy to answer any questions you may have.

Mr. ORTIZ. Thank you so much.

[The prepared statement of Mr. Perkinson can be found in the Appendix on page 92.]

Mr. ORTIZ. You have given us very, very important testimony today. And I know that the members will have a lot of questions to ask.

One of the questions that I have, you know, for employees converted from GS to NSPS, did the Department develop a system to make that decision? If NSPS is repealed, how would DOD revert back to the GS system? And what are the Department's other options? In other words, converting to a hybrid of NSPS and the GS or any other option? What potential challenges do you foresee? How long will the process take?

And, briefly, if you all can give us some feedback. And I don't want to take too much time because we have a lot of good members here who would like to ask questions as well.

Mr. BUNN. Thank you, Mr. Chairman. One of the issues that will likely be taken up by a review panel and the little bit of details that I can share with you on that is that it is likely going to be an external review to ensure that there is independence, so that it is an objective review. But we haven't determined all the details of who is going to be doing it, how long it will take. But certainly one of the things that will be under their purview is to look at the various options for moving forward. And at this point all the options are essentially on the table, to include making changes to the existing system all the way to the more extreme option of reverting back to the GS.

I can't say that we have done a lot of work to analyze the impact of that kind of an option. I can tell you that the fundamental principle that we will likely follow is to ensure that we do no harm to the employees if they do revert back to the General Schedule, similar to our approach to converting people to NSPS, ensuring that no pay was lost.

So those are the kind of things that we would be looking at. We would certainly be interested in hearing from the Federal Managers Association, other groups on their ideas, if that is an option that is taken by the Department and OPM.

Mr. ORTIZ. Do you feel that there might be room for modifications?

Mr. BUNN. Well NSPS, Mr. Chairman, was developed to provide flexibility. And part of that includes evolving over time. So there has always been an expectation that as we implement the system and evaluate that implementation and the design of the system, that there would be changes over time. So the current structure of the program, including the regulations and the policies, they are built to change over time and they can certainly do that.

So most of the changes that we could foresee, we would be able to make those changes under the current regulatory statutory structure, including changes to the performance management system, the rules around pay-for-performance. On the implementation side, we are always looking for ways to improve how we implement the system, how we train our workforce, how we communicate to the workforce to ensure that there is fairness and transparency in the program.

Mr. ORTIZ. Anybody who would like to add anything to the question?

Mr. PERKINSON. Mr. Chairman, I think the key point for us is we have taken 205,000 people and put them in a system that there is no doubt that we have seen it work in several areas. It works in several areas and it hasn't worked in others. And we have shared—we will share and we have shared the complications that we have seen with the system as it presently works and some of the disparities that do occur in our different agencies and organizations.

I feel that with the fairness to the people that have gone in the system—and we don't want to lose the fact that we did reward people in this particular system for pay-for-performance—and we think from our standpoint that was the right direction to go. We don't want to lose that ground, but we also want to protect them, whatever options come out after we do our review.

Mr. ORTIZ. Ms. Farrell.

Ms. FARRELL. Mr. Chairman, we would probably advise what we advised when NSPS was first introduced as a concept: Move cautiously. We would recommend giving the study that my colleague from DOD has mentioned with DOD and OPM time to look at the aspects.

NSPS, as you know, is very broad. It covers performance management, classification, compensation. There are so many moving parts. And first be sure what it is you want to fix before you move forward to fix it. There are no specific rules that we are aware regarding how to convert back, if that were the option determined to take. But there are demonstration projects that have been conducted, say, at the U.S. Army laboratory where they did write rules in their regulations about converting back. It basically, though, was directed at pay.

And as you have already heard from other panel members, there are roles and responsibilities and things are changing. But there

are some other rules in these demonstration projects that might be looked at as a point.

Mr. ORTIZ. I just have one—would you like to add something? Thank you. I just have one more question and then I will yield to my good friend from Virginia.

Why has the experience with pay-for-performance in defense laboratories demonstrated your program has been so much more positive than DOD and NSPS experience? And I ask GAO and DOD. Maybe they can add something to that.

Mr. PERKINSON. From the FMA perspective, we had some folks that—one of our chapters in China Lake, they were run under the demo projects. And I think one of the things that Ms. Farrell brought up was they moved cautiously as they implemented the demo projects, whereas when we implemented across agency lines in the different departments, we had a tendency for things to—the different ways that business rules could apply didn't leave a consistent base for the projects to go out. So we had individual pockets created at the different agencies or the facilities.

So with the demo projects, they were concentrated on what they did and they moved cautiously. So I think that was the success of those.

Mr. BUNN. If I could add something, Mr. Chairman. We did use some of the lessons that we learned from defense laboratories and other personnel demonstration projects as we have designed NSPS. One of the things I want to point out is that as we implemented those, the early years of those implementations did experience some of the negative perceptions and attitudes that we are seeing in NSPS. The important difference between NSPS and those demos is that the nature of the workforce and those laboratories were different. It was a professional workforce. It was homogeneous for the most part. And the flexibilities were very much designed for that kind of organization.

NSPS organizations and the way we designed NSPS, it is not the same kind of implementation. We have rules that are more standard across NSPS and weren't as tailored to those workforces. So there was a—you know, in some ways there were important parallels. We are experiencing the same kinds of things in the early years that they have experienced. And OPM and, I believe, GAO has pointed to those as well. But there are also important differences. And we have attempted to learn the lessons from the demonstration projects and we have continued to do that.

Mr. ORTIZ. I would just add that performance management is something that we have talked about. NSPS touches compensation and hiring and performance management. But true performance management touches everything throughout the organization. The goals cascade through the organization and touches how you hire, how you motivate, how you reward. And NSPS is very broad, much broader, I agree, than what we have seen at the demonstration projects. And it takes time. It takes five to seven years, when we have looked at results-oriented organizations that do use such type of management.

Mr. ORTIZ. Anybody else? If not, I yield to my good friend from Virginia, Mr. Forbes.

Mr. FORBES. Thank you, Mr. Chairman. Again I want to thank our witnesses for your expertise and for sharing it with us today.

I am going to have a number of questions with some degree of specificity I would like to submit to you in writing, where you can think about them and just give us answers so we can get information. While we have got this brain trust here, I want to do a more macro question. I think all of us would agree anytime we have a personnel system, it is never going to start off perfect.

The second thing, it is never going to be implemented perfect. And I remember the days in law school; I used to envy the law school professors because all they had to do was stir the pot and ask questions, but never answered anything. When you get to be a judge or lawmaker, ultimately we have got to pull that hot stuff from stirring all around, and we have to answer the questions.

One of the questions we are going to have to answer is this: Do we continue to tweak the NSPS system? Or at what point do we ditch it and say we are going to go back to the GS system, or do we ever get there?

And what I would like to ask you is just your individual perspectives. Do we continue working and trying to tweak this and make it better? Or do we ditch it and go back to the GS system? Because both of them have pitfalls. It is not a clear-cut question on either one of those.

And from your individual perspectives, seeing all you have seen, know all the questions we can stir up, know that we can say well, this is a problem here, this is a problem there, what do you think? Continue to tweak it, modify it, or ditch it and go back to GS?

And if each of you would give us your perspectives on that, I would appreciate it.

Mr. BUNN. Well, I think that is one of the issues that this review team is going to look at and wrestle with. My experience is that these kinds of systems are only successful when we have full commitment on the part of leadership, the line management in organizations, all the way up to the senior leadership. And in the Department of Defense that is both a civilian leadership as well as the military leadership.

This review, this time-out that we are taking, gives the new leadership in the Department of Defense under the new administration an opportunity to grapple with those fundamental questions and the underlying design principles of NSPS. And, really, I think what is going to happen is they are going to struggle with figuring out what things are implementation issues and what things are fundamental design or systemic kinds of issues. And, frankly, where we are in implementation now, we are just now far enough along in our implementation to start seeing and discern those things. But ultimately, trying to get back to your question, it could go either way.

Mr. FORBES. Brad, let me just—you have immunity here. There is no liability. We are just trying to get our arms around it. We really respect all of your opinions.

From what you know now—and I realize there are a million different things, and I know what they are going to try to do—what are each of your opinions? Is it worth tweaking and making it

work? Can we get there? Is that the way to go? Or do we need to ditch it?

Mr. BUNN. I think the—you said immunity, right?

Mr. FORBES. You have got immunity.

Mr. BUNN. I think there have been examples and demonstrations of successful systems like NSPS that we can point to and say they made it work over there. I think we can look at that and see—at least see a potential future where there is an NSPS and that have overcome and tackled these major problems.

We have addressed the issues that, Mr. Chairman, you mention in your opening statement and, Congressman Forbes, you mentioned. And that given time, we can overcome those. But the other side of that is that there are fundamental issues that, Mr. Chairman, you raised, one of them being multiple systems across the Federal Government, agency unique kind of systems. And I think this will probably open a debate about whether that is the right approach for the Federal Government.

So I think it is a healthy debate that we need to have. And I think that we need to have this review so that the new administration can embrace the program if we are going to move forward with it, and then at the very least get clarity so that our workforce knows what it is going to be operating under.

Mr. FORBES. I don't have a lot of time. Ms. Farrell, Mr. Bunn is still teaching law school on me. What do you think? If we go back to GS, are we going to have to make major changes in GS? Where do we go? What do you think; keep it, tweak it, go back to GS? Do we have to make major changes?

Ms. FARRELL. My agency would say—and I agree with my agency—tweak it. We strongly believe in performance management and the benefits that can be derived. It is not that you can't get results from the GS system, but performance management has given DOD the opportunity to reenergize and refocus their efforts and look at how they hire and how they develop and how they pay with the flexibilities. Give them more time to work through this.

Mr. FORBES. Thank you. Dr. Crum.

Dr. CRUM. Yes. I am going to say something slightly different, which is that the issues that are faced by DOD are also faced by other Federal agencies so that, in fact, if we wait for DOD to re-service a proving ground, we would be waiting some time and fail to capitalize I think on an opportunity to improve the civil service at the present time; where now we can capitalize on the economy to bring in people, which maybe we otherwise could not if in fact we had the right systems in place.

We will ultimately still be facing the same sort of retirement tsunami, for instance, in a few years that was talked about by GAO and others. Even though that may be delayed because of the economy, it will come up. We need to solve the same problems from other agencies, not just DOD.

Mr. FORBES. Mr. Perkinson.

Mr. PERKINSON. Congressman, I have a constituency that probably whatever answer I give you will be the wrong one.

Mr. FORBES. So would we.

Mr. PERKINSON. I am going to speak from my experience, being a supervisor and head of an organization that already has—we

have the three systems. I have to manage those three systems. I have wage-grade people assigned to me, I have General Schedule and I have NSPS employees. My personal feeling is that if at the end of the review we are going to come up and say we will go back to GS, we ought to go back to GS now, because that only gives me two systems to have to work with. I truly do think, though, we need to look across the board agency-wide at all the different aspects that are going on.

In the Internal Revenue Service, for instance, with the FMA organization, they have the pay-for-performance system. Social Security is looking at it. So we need to come back with basic principles that we are looking at, that all the agencies can adhere to, that we have one pay-for-performance system and some principles laid out there that we all can use as a standard. I think that is the direction we need to go so we don't have multitudes of pay-for-performance systems that we are trying to operate under.

But if I had my gut feel in what would serve me better at Norfolk Naval Shipyard today, I would say go back to GS.

Mr. FORBES. Thank you. And thank, all of you, for your answers. And Mr. Chairman, thank you for your patience.

Mr. ORTIZ. Thank you. Ms. Shea-Porter.

Ms. SHEA-PORTER. Thank you, Mr. Chairman. Well, your last comment certainly got my attention. And I wanted to ask you to please elaborate the reason for that, Mr. Perkinson. Why would you go back?

Mr. PERKINSON. Well, right now, one of the difficulties in being a good, competent manager is the different types of rules we are under. Under the wage-grade system, of course, I have got to deal with different rules and responsibilities, and plus they are getting a structured raise that is dictated by the wage survey system. And the General Schedule, the bargaining unit employees that I have, they are coming under the congressionally approved pay raise. And then I have the NSPS folks that we are giving raises to. We are rewarding performance.

So it is a management nightmare to kind of have to explain why you are not—why certain aspects or certain people are not getting the same consideration that another group is getting.

For instance, the new question at my activity is, from our General Schedule bargaining unit, when are we going to get paid for our performance like the NSPS folks? When the survey came out and the results of the payout, they got 3.9 percent. Okay. So the average payout for the NSPS folks was 6.4. Legitimate question. But it is a tough one to manage through when you have got those different types of attitudes and people that you have to motivate to get your job done on a daily basis.

Ms. SHEA-PORTER. But if they had the choice—I thought I heard you say that you would go back to the GS.

Mr. PERKINSON. I said as a manager I would go back to the General Schedule because it would make it easier for me. There are—and I included in my written testimony—there are different flexibilities with the General Schedule system where we can pay for performance. Quality step increase, those type of activities, there are some tools in the General Schedule system where we can reward performance.

Ms. SHEA-PORTER. I have to say I have a family member who has lived and been happy under the GS system for a long time.

Mr. Bunn, I have been hearing some complaints—and not from my family member. I have plenty of complaints but not about this. I have been hearing complaints from Federal employees that under the system they don't feel comfortable talking to a manager about something they don't like, or a suggestion, because they fear that they do not any longer have the protective structure around them and that later they will be punished for being so frank. And so they tend to find somebody who has the courage or the good standing with their boss, so that they won't have to worry.

What are you doing to make sure that doesn't happen? I am sure that happens. But what are you doing to acknowledge it and to work on that? I mean, that is why we have got the system to begin with, the original GS, so that it would be fair and equitable and people could understand. I know there are problems. But at least we understood if you were here a certain amount of time, you performed at a certain level, you could expect that the job would not go to the relative who just showed up two days ago.

Mr. BUNN. Well, one of the things we did early on in the system was a fairly extensive training effort with our supervisors and managers. They are really the people who have to make this work because that is where we are putting this discretion. We are putting discretion in the hands of supervisors and managers who now have more influence over the pay outcomes of their workforce. So that was a conscious choice the Department made. That is one of the underlying principles of pay-for-performance. Part of it is the design of the performance management system and ensuring that you have a structured evaluation system that measures performance against objective criteria.

So when we designed the performance management system we established benchmark criteria against which individual performance is measured, and then ultimately rewarded under the pay-for-performance system. Training our supervisors and employees in understanding how that works and setting results-oriented goals and objectives aligned with the mission, those are all parts of our implementation training and continues to be part of NSPS training going forward.

Ms. SHEA-PORTER. That sounds wonderful. But how do you extract the part—in every person—which is, I like this one better, or I didn't like the work that one did because I thought we should have used—

Mr. BUNN. The issue of favoritism.

Ms. SHEA-PORTER. Or for whatever. There are people who don't even recognize it in themselves, and you could train them forever and they could agree with you about the objectives but not recognize that they are not using those objectives, that their outlook is colored by starting off with a certain perception.

So how do you account for that? And how do you try to pull that out of the recipe?

Mr. BUNN. I think what you have to look at, then, is what safeguards do we have in the system. And in fact that is what my colleague from GAO has done most of her work on in looking at NSPS, and GAO has actually found that we do have safeguards in

the system. Part of that is multiple layers of review in the performance management process, so that first-line supervisor is not the final say in the performance evaluation process; that a higher level of review looks at the rating, and at that point that could catch some of those kinds of behaviors if there is a bias, if there is favoritism going on.

And then the pay pool process, which is the panel process that we instituted as part of NSPS, and the performance evaluation where you have a panel of senior leaders from within the organization reviewing the outcomes of the rating process to ensure that the criteria is applied appropriately, consistently, and fairly across the organization. So those are the most significant safeguards that we have.

Ms. SHEA-PORTER. But of course it is the massiveness of the job, and I know how hard Federal employees work. They really can't sit down and find out all the nuts and bolts in a particular work station, in a particular issue. It is just not possible. But if that were working, Ms. Farrell, could you please tell me why the satisfaction rate is dropping? It would seem to me—did you say about 26 percent now?

Ms. FARRELL. Twenty-three.

Ms. SHEA-PORTER. It would seem to me that over, you know, a couple of years, as people became a little more accustomed to it, that the rate would stay the same or maybe even rise a little bit instead of plummeting.

Ms. FARRELL. It did plummet, and typically with a transformation of this major end scope, you will see a plummet. There hasn't been enough time to pass to see if that is going to be a consistent trend. We will be looking at this year's and next year's results as well to see, but typically it will plummet, it will level off, and hopefully it will go back up.

But if I may go back to your first question regarding the safeguards, as Mr. Bunn said, we did look at the internal safeguards, and training is one. Training and retraining. And we cannot emphasize enough that the training has to be continuous. It is not just up front when you launch the system, but you have to keep doing it with the supplementals. And we did give kudos to DOD regarding training that was needed by all employees up front and then specialized training on different aspects of the system, et cetera.

But the predecisional analysis that I referred to that DOD disagrees with, that is an opportunity for a third party that is outside of the chain of command to be—to conduct an analysis to look for anomalies that may need further investigation in terms of a particular individual or certain groups, inconsistencies that warrant investigations; not to necessarily change the rating to make it look ideal for a certain type of distribution, but to see if something needs to be investigated, to make sure that the employee is receiving a rating that is a comparison of what they did with their objective and the other performance indicators, and then take steps and change it if a mistake was made. But that is something that DOD does not require, and it could help, help, ensure what you are talking about.

Ms. SHEA-PORTER. I remember a couple of years ago when we had the hearing and the report on that side of the table was pretty

sunny, that people were happy, that their money was better, that they thought it was fair, that they were getting recognized. So it is interesting to me to see this happen again and see that what my initial suspicions were seem to be possibly coming true under this system. So thank you all. I appreciate it.

I yield back.

Mr. ORTIZ. Mr. Rogers.

Mr. ROGERS. Thank you, Mr. Chairman.

Ms. Farrell, I wanted to talk a little bit to follow up on a question. Tell me about these ratings. The employees participated in a rating program where they rated their satisfaction level. Is that what you were saying had plummeted?

Ms. FARRELL. She was referring to some remarks in my opening statement about employees' overall dissatisfaction. Those who had been under the system the longest when we look at DOD's employee survey results, there was dissatisfaction expressed from 2006 to 2007, and it plummeted from about 43 to about 27 percent.

Mr. ROGERS. Just among those in NSPS?

Ms. FARRELL. Yes, those who were in NSPS for the longest. As you know, NSPS has been phased in. Again, that is why we believe an action plan is needed to address such concerns, to find out what is behind that statement that they are dissatisfied that NSPS will have a positive impact on the personnel practices, and to dig deeper and address those concerns.

Mr. ROGERS. Was there a similar review or sampling of the wage grade in the GS employees to see if they were satisfied with their pay system?

Ms. FARRELL. There are statistics that surveyed the GS, and there are statistics that show those who are under—for certain questions, those who are under NSPS have a more favorable view than when they were under the GS system. So there are positive indicators as well.

Mr. ROGERS. But I am trying to compare apples to apples. Currently a snapshot of the employees in the three systems, does one stand out as being much less desirable than the other two?

Ms. FARRELL. It is mixed. When we looked at what data is available, it is a mixed report card right now.

Mr. ROGERS. Okay. Staying with you, you talked about finding a way to reassure employees that it is fair and equitable. What kind of ways do you think that you are going to be able to do that?

Ms. FARRELL. One of the safeguards that Congress mandated for DOD to include in the NSPS system is to involve the employees in design and implementation. Now, we are past design, but we are well into implementation. Again, one way to involve the employees—and I am not saying that DOD does not. They hold town hall meetings. They have focus groups. They conduct this status of survey for civilians that is projectable to the entire population on a regular basis, asking questions about NSPS; but it is take that survey result and document what the employees' concerns are, and take action, hold somebody accountable with coming up with something to respond to the employees, and that would be pulling the employees into the implementation part at this point.

Mr. ROGERS. As a part of your review, did you all look at in the NSPS system employees that had gotten significant bonuses and

kind of review where the complaints were that they were inequitable?

Ms. FARRELL. No, we did not look at individual cases, and the survey results I don't believe break down the type of information that you are trying to get to. It would come up in our focus group discussions, but nothing that would be projectable.

Mr. ROGERS. Well, Mr. Perkinson talked about his situation with his employees and how he found it to be unfair from a manager's standpoint. And it would be good if you could take the pay raise situations where there has been expressed concern that it was unfair the way it worked out and look at them and see if there is some way we could remedy that.

But, Mr. Perkinson, do you know of any way we could do that?

Mr. PERKINSON. There is a mechanism in NSPS that allows—it is called reconsideration, and it is a process that can work by the employee. But it comes back to a point that was made earlier about, you know, the employee has got to have the desire and the knowledge to want to go make that reconsideration. And I think in some cases what happens is the employee is frustrated and says, "I will just accept what I get," rather than make the effort to ask for reconsideration. I do know of a personal experience where somebody did ask for reconsideration, and it was accepted, and the process worked. So there is a tool in NSPS that does allow for the employee to make a challenge to a rating if they think it is inappropriate.

Mr. ROGERS. My depot employees are very apprehensive about this NSPS and its equitable nature, which leads me to want to know how do employees feel about the wage grade and the General Schedule? I would love to see some apples-to-apples employees survey among those three groups, because if we follow what Mr. Perkinson indicated would make his life simpler and got rid of NSPS, I would like to know that the people who are in wage grade and GS and say, that is a good thing, and not say, you made it worse. So I would just like to see that survey.

Thank you, Mr. Chairman.

Mr. ORTIZ. Ms. Bordallo.

Ms. BORDALLO. Thank you, Mr. Chairman.

I have a question for Mr. Bunn. In fact, I have a series of questions. First, the issue of implementing this system is of great importance to our civilian workforce, and the halt in further implementation of this system allows us time to get the process right and make sure it is fair and equitable for all civilian employees in DOD.

Now, on Guam—I represent the U.S. territory of Guam. The commanders in the Air Force and the Navy are moving toward implementing a joint region concept that was dictated by a 2005 Base Closure and Realignment (BRAC) decision. I have heard from several constituents on Guam about concerns they have regarding how civilian personnel will be treated for purposes of promotion and eligibility for other civilian jobs within their specific service.

Now, similarly, NSPS allows—the rules allow each individual military organization or service to determine how much funding is available for raises and bonuses, which leads to inconsistency among all DOD organizations.

What action can be taken to require more consistency in the budgeting of NSPS among the various organizations to ensure more fairness in payouts?

The second part of that question: What impact does joint basing or joint region implementation have on civilian employees who are part of the NSPS system?

And, third, has DOD factored in the complexities of joint base implementation into how the NSPS system would be implemented on Guam and at other installations facing similar joint basing requirements?

Mr. BUNN. I will start with the joint basing issues first. We are in the process of planning for implementing the joint basing decisions, and in some of those cases, it does involve bringing organizations from different services together under a single umbrella and under a single service, which also means, whether it is NSPS or wage grade or GS, there are some different ways that the services handle personnel management, and that includes funding for pay pools, funding for performance awards on the wage grade and GS side as well. So some of the consistency issues don't just apply to the NSPS pay pool funding; they kind of apply across the board.

But one of the things that the review will—and I know I sound like a broken record, Mr. Chairman, but one of the things that the review will take up is the issue of managing a workforce under multiple systems, and what impact and what challenges that presents, and what we could possibly do to mitigate those challenges, and also fundamentally whether that is something that we can live with.

Specifically for the joint basing, we do know that there are some—which is another word for “reorganization” essentially is what is going on—there will be some moves of employees off of some service rolls onto the joint base rolls, and generally once they move onto the rolls of the new organization, they will be treated—say, a Navy civilian moves onto the Army rolls, they will be treated as an Army civilian, and that includes whatever personnel policies apply to those—to the Army population. So that is generally how we are approaching it.

Now, there are some issues with respect to bargaining unit employees who move from an organization into an NSPS organization, and I know that issue has come up on whether that is going to cause them to be moved into NSPS, and whether that might have—have an implication with respect to our delay in further conversions. The bottom line on that is that if they are bargaining unit employees, and they are moving to a new organization, again, regardless of the NSPS/GS issue, there needs to be a determination that is made by the Federal labor relations authority with respect to their bargaining unit status and whether they still are a member of a bargaining unit. And until that process happens, which generally takes several months, we wouldn't change the system that they are under. So if they are under GS, they wouldn't change to NSPS until the bargaining unit issue is clarified.

Ms. BORDALLO. I see.

I would like to get Mr. Perkinson's suggestions on this.

Mr. PERKINSON. With the joint basing issue, it sounds to me like if we were consolidating, we were bringing people so there is a con-

sistency, that is a proper way to look at it. In particular you can look at our organization and make the rules the same so that there is the transparency and equitability on how the payments are. That seems like it would be the right way to go for the employees and for the managers as well who have to work in that system.

Ms. BORDALLO. Thank you.

And I have one more quick question, Mr. Chairman, if I could.

Mr. ORTIZ. Go ahead.

Ms. BORDALLO. All right. Guam is in the midst of a major military realignment, and the key component of this realignment is the transfer of 8,000 marines and 9,000 dependents from Okinawa, Japan, to Guam, as well as an increase in all the other services: the Air Force, the Navy, and Army. And in the end we expect a large increase in civilian DOD personnel.

It is important that any civilian hiring system on Guam be flexible enough to provide incentives for workers to remain on Guam. So we are doing our part as a Congress to pass comprehensive pay locality legislation for the nonforeign Cost of Living Adjustment (COLA) areas, but we need to be mindful of keeping options open for certain types of compensation and recruiting and retention incentives when implementing an NSPS on Guam.

So to that extent I understand that NSPS tends to put a significant amount of employee compensation at risk by moving payroll dollars into performance-based pay pools. How has DOD ensured that employee compensation is not artificially affected by budget constraints and ensure that NSPS-covered employees—that they have their at-risk compensation sufficiently protected from budget fluctuations?

Mr. Bunn, I guess you would be able to answer that.

Mr. BUNN. Yes, ma'am.

One of the provisions in the statute, the underlying statute, for NSPS is to ensure that as employees move into NSPS, that they are not disadvantaged from the standpoint of overall compensation. So our policies, the rules that we put in place for how we fund NSPS pay pools and how we fund civilian compensation under NSPS, essentially protect those funds. And, in fact, we require our components to certify every year that the funds that are allocated for purposes of NSPS compensation pay for performance are no less than what would have been allocated had those employees at that population not converted to NSPS.

So we protect that money, and we ensure that the money is available, and that it is allocated. It is now—under NSPS, it is now expended under the pay-for-performance process and under those rules, and that is how the compensation is distributed, but the money is there.

Ms. BORDALLO. Thank you, Mr. Bunn.

Thank you, Mr. Chairman, for giving me some extra time.

Mr. ORTIZ. Mr. Bishop.

Mr. BISHOP. Allow me, I think, about four questions that are more general, and to whomever wishes to respond, it is fair game.

The first one just deals across the board. Is there still a consensus by the four of you that incentive bonuses have some kind of role? Should they be maintained in some form or another, not necessarily the one you have now, but are incentive bonuses a le-

gitimate factor that should be maintained in the compensation system?

Mr. PERKINSON. Yes, sir. I think it is a factor that needs to be kept on the table and utilized as a tool. Incentive bonuses and paying people for doing above and beyond their normal expected duties is something that we need to do.

Mr. BISHOP. Is there any disagreement with that, then?

One of the things I thought that was a purpose of NSPS was to try to reduce the number of pay grades, scales, so that they were more in line with the regular Federal workforce. Is that still a plus? Is it still a goal? Should there be more steps in pay grades? Should it be reduced? Should DOD be significantly different vis-a-vis the rest of the Federal workforce?

Ms. FARRELL. I believe you are referring to broadbanding.

Mr. BISHOP. Yes.

Ms. FARRELL. And that is a management flexibility that does aid with hiring. When you are bringing someone into the Federal Government, because you have banding, there is a broader range of compensation that you can offer them rather than having them come in, which is traditionally they come in, and it is step one, period, that is it. So actually broadbanding can help to make DOD more competitive to bring people in and reward them that way.

Mr. BISHOP. Is that still a plus that should be a goal regardless of what you do with this system?

Mr. PERKINSON. I think that broadbanding would be a tool that we need to utilize in the workforce, though we have got to be careful on how we utilize it, and that we utilize it fairly, you know, because it is sort of like—we don't want to run amok like baseball salaries do for getting the best player. You know, we want to have some kind of reasonable—

Mr. BISHOP. Careful. I like the Yankees, so—

Mr. PERKINSON. I understand.

Mr. BISHOP. Okay. But that still is a concept that it is fair game.

Mr. PERKINSON. Yes.

Mr. BISHOP. I know in depots, and I have one obviously as well, there is an aging civilian workforce. There is going to come a time when there is going to be a serious drop in the resources and manpower that we have.

Does NSPS system, in your view, either help or hinder in that particular challenge of attracting new people that are going to be coming into the system? Once again, it is open for people who want to take it.

Dr. CRUM. I think it gives management more options and to what they pay new people when they come in, thereby creating greater flexibility, greater ability to hire someone. That would be the main thing in terms of sort of attraction and retention of those people. So I do think it gives that sort of flexibility.

Mr. PERKINSON. I agree with that assessment to a point. And what I want to bring up as a caution is that some of the feedback we are getting from some of our agencies is that some of our brightest younger employees are avoiding NSPS because of the press it has been getting, okay, because they are looking to stay in the General Schedule system versus go to an NSPS system, because right now if you look at the scope of the NSPS system, they

are mostly managerial, non-bargaining unit-type employees, and they are saying, why should I go to that system? So I think if we clear up the image that is out there, and in some cases a false image, I think it is a good tool to use to bring our younger people on board.

Mr. BISHOP. I guess what I am hearing from all of you is some of the goals we still have are valid. The devil is obviously in the details of how can we structure it in some particular way.

Let me ask one last, hopefully a little bit more specific question, once again of anyone who is here. Since 2003, when we started this program, there have been some significant changes with regard to the appeals rights of employees in dismissal and disciplinary matters. Are you satisfied that that is a more appropriate—the modifications have been more appropriate in making it satisfactory to employees in the way they have changed over the years? Are we in a better—you know what I am trying to ask. Are we in a better position now than we started in 2003 with regard to dismissals and discipline appeals? Maybe that wasn't the right question to ask. I am sorry. Go ahead.

Mr. BUNN. Well, the original statutory language did provide flexibility to rewrite how we do employee disciplinary appeals, if that is what you are referring to, sir. And we wrote regulations to essentially streamline the appeals process and how employees who are subject to adverse action, how they interact with the Merit Systems Protection Board. But in the fiscal year 2008 National Defense Authorization Act, that portion of the statute was repealed. So we haven't actually implemented any changes to how we do employee disciplinary appeals. We are operating under government-wide rules with respect to those kinds of appeals, if that is what you were referring to, sir.

Mr. BISHOP. Okay. You gave me a better answer than what I should have phrased as my question in the first place. Thank you.

I realize my time is up. Thank you, Mr. Chairman.

Mr. ORTIZ. Thank you.

Mr. Kissell.

Mr. KISSELL. Thank you, Mr. Chairman.

Thank you, panel, for being here.

Maybe a couple of overview questions.

Was there a model—and, Mr. Bunn, you maybe can answer this. Was there a model when we set this up? Did somebody have this system in place where it worked, and we said, hey, we want to do that; or did we go to the drawing board and kind of put it together from there?

Mr. BUNN. Back in 2004 and 2005, we conducted a fairly extensive design process, but where we started was looking within our own experience in the Department of Defense starting with our demonstration projects that were in place at our Science and Technology (S&T) laboratories, as well as one of the early demonstration projects for alternative personnel systems out at China Lake. And the way we designed the system was we took pieces of those—we didn't take any one single system in whole and implement that as NSPS. We took portions of those, essentially following very similar design principles with respect to performance and pay and the importance of rewarding excellent performance and contributions,

and we structured the system based loosely on our experience of the demonstration project. So our pay bands are based loosely on what we did in our demonstration process.

The pay-for-performance system is very similar to the pay-for-performance systems in our lab demos, but, again, there are some minor differences, but it is essentially modeled after what we did with those organizations.

Mr. KISSELL. Has the model that you started out with stayed basically the same, or has it been added to, added to, added to as we have gone?

Mr. BUNN. In terms of the performance management and classification in pay and the pay-for-performance system, the core of it has been the same since the implementation. We did make changes to our—the governing regulations to conform to changes that Congress made in the NDAA for 2008, namely the changes in repealing the labor relations provisions, adverse actions, those kinds of things, but also changes to the pay system that require us to provide at least 60 percent of the General Schedule-based pay increase. That is now part of the system. But fundamentally the design of the pay-for-performance system has been the same throughout.

Mr. KISSELL. Ms. Farrell, either you or Mr. Bunn, I can't remember, mentioned 205,000 employees. Are all of these on NSPS, or is the total number of civilian employees that we have?

Mr. BUNN. Sir, I mentioned that we have about 205,000 in right now. There are another 2- or 3,000 that are eligible to come under the system, meaning they are currently white-collar, GS, non-bargaining unit employees that we could, and those are the conversions that we actually delayed in order to do this review. Once those—if they come in, that will complete our implementation, and that represents the former GS non-bargaining workforce in the Department.

Ms. FARRELL. May I answer that? The initial plan was to bring all DOD employees under, and that is roughly around 700,000. So the roughly 205-, 207- where DOD will end up is significantly less, and that is due to collective bargaining and agreements with the union, populations that at this time have been excluded. So it is significantly less than the 700,000 original plan.

Mr. KISSELL. It would seem to me that consistency across the board when you are talking about the broad range where the services are performed and the broad number of people that have to make these judgments, it would seem that consistency would be one of the most formidable tasks that this system would face. Have you found in your reviews that in one area of the country it might be performance showing certain things, and another area showing certain things, and if you compare it, then maybe it was the perception rather than a difference in actual performance?

Mr. BUNN. One of the things that we are looking at now and that this review will eventually look at is how much variability there is within the system depending on what organization you are a part of. Overall the rules are fairly standard.

The way that we conduct performance management, the performance management system itself is standard across the board, but we do give flexibility to organizations to operate differently within

that common framework, and there can be and there have been differences in the outcomes based on organization, the organization you are a part of.

I am not familiar with differences based on geography, but some of it is driven by organizational differences in how they have actually implemented the system, how they have funded pay pools and those sorts of things. And I think what we are going to be looking at is how much inconsistency is tolerable.

Mr. KISSELL. And that is what I am thinking. Manager A might give out certain bonuses, and manager B might say, I am a little harder, I don't want to give money out as quick.

And my last question, and please forgive my ignorance here, but I have heard it said in both ways: Are we talking about pay in terms of salary, or are we talking about pay in bonuses on top of set salary scales?

Mr. BUNN. We are talking about both. The NSPS pay-for-performance system, the performance evaluation drives both a performance-based salary increase as well as a bonus on top of that. So generally the pay for performance—the payouts are a combination of a salary increase and a bonus, and that is on top of the general increases that we also provide based on the annual increase that Congress appropriates for the civilian workforce.

Mr. KISSELL. I came from a background in 27 years in production management. I know the advantages of incentives, but those advantages have to be clear-cut, easily defined, where everybody can see what everybody else is doing and what everybody else is getting. I am anxiously awaiting your report, because it seems like there is a lot of gray zones of decisionmaking by individuals that become very hard to do and be consistent. So thank you for your testimony.

Mr. Chairman, I yield back my time.

Mr. ORTIZ. Thank you.

Dr. Crum, I have a question for you. The Federal Government must compete with the private sector for talented candidates or employees. Why does the Federal Government hiring process take longer than hiring processes found in the private sector, and what can the government do to attract qualified candidates at all levels, those fresh out of the university or college, those leaving the military and seeking a new career, those midlevel-career private-sector individuals who might want a chance to work for the Federal Government? It seems to me that the Federal Government takes a long time. Maybe you or anybody else that would like to answer.

Dr. CRUM. I would be happy to try.

The process takes longer for a variety of reasons. Partially we are held to different standards. We have a standard of transparency. We have a standard of inclusion, a standard of making sure that everyone gets due process, if you will, so that we can—for instance, if we are trying to make a decision on hiring someone, we are going to consider everyone who might apply for that job. Compared to the private sector, they might, in fact, identify someone early on in the process that they want and cut off the process. We have to, in fact, not do that, but consider everyone and apply the standards equally.

So the process itself may take longer than if we compared it directly to the private sector; however, it also takes longer for inappropriate reasons. We overlay many times other steps in the process that are unnecessary. We do not do our selection process necessarily very efficiently. There are many things that we could do to, in fact, improve the speed at which we process applications.

So part of it is systemic, but part of it also is self-imposed many times just by the agencies in terms of their own structures, their own ways of doing business which have evolved over time and have not really been looked at in ways to try to say, what would be the best way to do this; rather, it is the way we have learned how to do it. So part of it is sort of reinventing or looking again at those processes to see what we can do better.

To the second part of your question, what can we do to attract people, we do have a lot of, I think, valuable aspects of Federal employment that we find are very attractive to people. Part of that is making a difference. People want to contribute to society. We can advertise that. We can advertise also our benefits, which exceed those of the private sector in many cases. Also the job security that we have. In many cases we find that when people understand what we have to offer, they would like to come to us.

The problem is in reaching those people. That is another thing we do not necessarily do a very good job of is reaching out to people, showing them what we have to offer and how they can both make a difference and get something out of it. So I think that in many ways our processes are not attuned to really efficient both recruiting or selection.

Mr. ORTIZ. Anybody else? If not, I just have one more question, and I will yield to my good friend from Virginia.

The performance management system for NSPS consists of five grading categories of which the lowest rating is a 1 for unacceptable performance, and the highest rating is a 5 for role model performance. The majority of the employees in 2008 and 2009 were rated a 3 or valued performer. The GAO reported in 2008 that during discussion groups with civilian employees under NSPS, a prevailing theme was that it was impossible to receive a rating higher or lower than a 3.

Is the Department aware of employees' concerns about the distinction in performance being made, or that there is a perception among employees that everyone gets a 3, or a valued performer, no matter how well or poorly they perform? If so, what should be done to address these concerns? And we have heard a lot of these among some of the employees, and maybe you all can address that if you are hearing the same thing I am hearing.

Mr. BUNN. Mr. Chairman, from the Department's perspective we have heard those concerns, and that is one of the reasons we have been open about publishing results of the performance-rating process in the aggregate.

And the statistics that you mentioned, you are correct that the majority of employees were rated at the level 3. Last year in January of 2008, the number was about 57 percent at the 3 level, and about 36 or 37 percent at the 4 level, and roughly 5 percent at the 5 level. This year statistics were about the same, about 55 percent

at the 3 level, 38 percent at the 4 level, and about 5 percent or a little less than 5 percent at the 5 level.

And I think that distribution does demonstrate that it is certainly possible to get above a 3 when we have over 40 percent of the workforce receiving 4s or 5s. Part of it is an understanding or getting a better understanding of the performance criteria. The system was designed to be a rigorous evaluation system, and the way that we designed the level 3 and the ratings above was to be—essentially set a high bar of performance. The level 3—and the reason we called it “valued performer” was to make it clear that that is a good performance rating, and that most of our employees will operate at that level, and that the higher levels are reserved for exceptional performance.

We have heard the concern that 3 is all you can get, so why try to, you know, write anything any higher? But the statistics don't bear that out, given that we have got just a little less than half the workforce getting higher ratings.

Mr. ORTIZ. Do we know—when you look at the percentages that you just mentioned, 50-some-odd, 45, and 5 percent now, are these the employees who have been there—who gets the highest rating, those who have been there for a long time, or those that have been recently hired, 2 or 3 years? How do we get to those numbers?

Mr. BUNN. I don't know those statistics off the top of my head, and we can certainly work with you to provide that. But some of the things that we look at when we analyze those results, we look at it across pay band levels. We look at it across various demographic categories, and there are some differences in what we see.

[The information referred to can be found in the Appendix on page 129.]

Mr. BUNN. In some cases we are seeing that the folks that are in the higher pay bands, who also tend to be more senior employees, are getting higher ratings, and we are also seeing that supervisors tend to get higher ratings than nonsupervisors. And that is another area that we are looking hard at as we—and that this review will look at is the perception of the fairness of the system, and are we ensuring that there is consistent application of the criteria across.

Mr. ORTIZ. Anybody else?

Ms. Farrell.

Ms. FARRELL. I believe what you are raising gets to the heart of the three safeguards that we reported on that DOD could take steps for improvement, and one being transparency of ratings at the command level so that employees could know where they fit, not just the aggregate, and DOD has taken steps to make sure that that happens. Another being the perception that no matter what I do, I am going to be rated a 3, a valued employee. And DOD partially concurred with our recommendation to clarify the guidance that employees are rated against how well they did for their objective, not against each other, and that is a partial concurrent. We are waiting to see that guidance clarifying it.

There is also the third safeguard regarding predecisional analysis and the importance to look for anomalies and look for inconsistencies, because if a problem is identified that perhaps is blatant discrimination, then it can be corrected before that rating is final-

ized. DOD took issue with that, and they rely upon their postdecisional analysis, of which we are looking forward to looking at during this second review of NSPS and if that in some way addresses it. But we still stand behind a predecisional analysis needs to take place to just investigate if there is an anomaly and take action before that rating is finalized.

Mr. ORTIZ. Anybody else?

If not, I yield to my good friend Mr. Forbes.

Mr. FORBES. Thank you, Mr. Chairman. Our witnesses have been very patient, and I have a long list, as I mentioned earlier, of some written questions I would like to submit with your permission. Rather than hold them here any longer, I will do that in writing.

But I want to just thank you all for your willingness to come out here and give us the benefit of your knowledge and your expertise, and thanks for your patience with us.

Mr. Chairman, I yield back.

Mr. ORTIZ. Mr. Bishop, do you have a question? No?

I just have one more, and we have been here for some time, and I will tell you what. We have four good witnesses with maybe different ideas, but I think that by collectively bringing those ideas, we can make it better.

A complaint of the GS system is that it rewarded tenure, but not performance; however, the Federal Employees Pay Comparability Act provided numerous pay flexibilities for GS employees, and I have several questions about the act.

Were managers fully trained and knowledgeable about what flexibilities were available to them in the GS system? And many of the flexibilities provided under the act are similar to what is offered under NSPS, and why weren't these flexibilities enough?

And I have a bunch of questions, but maybe we can have some short answers. Why did the DOD believe it had to create its own unique personnel system, and what additional changes, if any, should be made to the GS system? And if you can answer some of them; if not, maybe you can respond for the record.

Mr. BUNN. I would be happy to respond for the record. In general, though, the basis for pursuing NSPS, the Department felt that given the changing nature of the national security environment, it was important to recognize the unique role that civilians play in supporting national security, and that to move to a culture of results and performance as well as the flexibility that pay banding and those kinds of things have to offer so that we can be competitive in the market to attract and retain talent, we needed to break from the GS and break from the previous title five systems.

Mr. ORTIZ. Ms. Farrell.

Ms. FARRELL. I would just say that GAO has reported, even after NSPS was introduced, that there are a number of human capital flexibilities available to agencies, and you are exactly right in terms that managers weren't aware of them and how to use them. And I would—NSPS again was a way to reenergize and refocus, and we would hope that some of these flexibilities now within NSPS aren't lost in the shuffle, as we saw with the GS system.

Mr. ORTIZ. We do value the tremendous work that our civilian employees perform, especially in a time of crisis. We are involved in two wars and hot spots all over the world, and I think morale

is a big factor. We want to have, as some of you have stated, transparency and to be fair to them. And I know you all want that, and I know you care for the employees. And we have different approaches, but I hope that we could make it better.

We will have some questions by Members who couldn't be with us today because tomorrow is the big day, tomorrow we vote for the budget; so everybody is having little meetings all over the place.

But I really appreciate your testimony today. It was outstanding, and I want to thank you.

This hearing stands adjourned, and thank you so much for joining today. Thank you.

[Whereupon, at 4:30 p.m., the subcommittee was adjourned.]

A P P E N D I X

APRIL 1, 2009

PREPARED STATEMENTS SUBMITTED FOR THE RECORD

APRIL 1, 2009

OPENING STATEMENT - CHAIRMAN SOLOMON ORTIZ
READINESS SUBCOMMITTEE HEARING
APRIL 1, 2009
NATIONAL SECURITY PERSONNEL SYSTEM

The hearing will come to order.

Welcome to today's Readiness Subcommittee hearing on the Department of Defense National Security Personnel System.

I want to thank our witnesses for making the time to appear before us today.

Two years ago, the subcommittee held its first oversight hearing on the Department's new personnel system – NSPS. As was clear from that hearing, and follow-on studies, it has gotten mixed results.

The intent of NSPS was to help DOD respond to its 21st century human resources needs. Two years ago, I asked the question: Was it the right fix?

That question is still valid today.

I am pleased that the Department has now undertaken a comprehensive review of NSPS. This review responds to a letter that Chairman Skelton and I wrote asking that Secretary Gates discontinue converting employees to the new system until the Administration and Congress can properly address the future of NSPS.

Since the Department has only begun its review, I understand that our DOD witness will not be able to give us very many details today.

However, I do hope that DOD will share with us the guiding principles that will be followed in undertaking this review.

And all our witnesses should be able to provide the subcommittee with information on the challenges and concerns that must be addressed in any review of NSPS. These include such issues as hiring, fairness of the performance ratings, payment of salary increases versus bonuses, employee acceptance and manager accountability.

We also should take a critical look at the GS system and the incentives provided under that system. During the campaign, President Obama indicated that he would consider either a repeal of NSPS or its complete overhaul. Today's hearing will help lay the groundwork for any action our committee might decide to take following the results of the review and the President's direction.

Let me go back for a minute as to enactment of NSPS in 2003. At that time, Congress was told that a new system was necessary to provide the department with greater flexibility in hiring employees. This would respond to the number one complaint of federal managers. That is the need to fix the complex and lengthy hiring process.

In fact, The Merit Systems Protection Board, which is represented by one of our witnesses today, has stated that the Defense Department could be the model for reforming the government's hiring process. However, DOD has made no effort to tackle what I consider to be one of the biggest challenges facing the Department: attracting qualified new people to work for the military services and the defense agencies. Since passage of NSPS, the Department instead has focused its efforts on developing its own unique "pay-for performance" system.

But should each agency be allowed to create its own personnel system, which appeared to be the trend in the last Administration? I wonder if that is good for the employees and the government as a whole.

Even within the Department, there are now three separate personnel systems -- NSPS, GS and Wage Grade. Should this continue?

Of course, for many employees that I have heard from, the answer is clear. Stop NSPS and return to the GS system.

Giving incentives for good performance and improving hiring were key reasons for the creation of NSPS.

However, Congress already had provided numerous flexible authorities to all government agencies to reward performance in the GS system. These were never used.

Today, we will hear from a variety of witnesses. No hearing on NSPS is complete without a witness from DOD. None of the political appointees from the Bush Administration who pushed for NSPS are still around. So today we will hear from the individual tasked with the challenge of making it work; he also is the most knowledgeable about NSPS.

We have mandated that the General Accountability Office, conduct a thorough review of NSPS to ensure that adequate safeguards are in place to ensure fairness.

We will hear about their most recent report. GAO, which has its own unique pay-for-performance system, has found numerous problems with the DOD system.

I already have mentioned the Merit Systems Protection Board, an agency that we rarely hear from. The Board has done numerous studies on the government's hiring system. They recognize that hiring is critical to any discussions on civilian personnel management. And they have put forth numerous recommendations on reforming the federal hiring process.

Finally, the Federal Managers Association represents the users of NSPS. As managers, they have some very strong views on NSPS – and what it would take to fix it. Or what we should do if NSPS is eliminated and we return to the GS system.

I look forward to your testimony.

Before starting, I ask unanimous consent to include statements for the record from the National Federation of Federal Employees, the International Federation of Professional and Technical Engineers and the American Federation of Government Employees.

Now I would like to turn to my good friend from Virginia, Mr. Forbes, for any opening remarks he might like to make.

Today, we have a panel of distinguished witnesses who will discuss the Department of Defense

National Security Personnel System.

Mr. Brad Bunn
Program Executive Officer
National Security Personnel System
Department of Defense

Ms. Brenda Farrell
Director, Defense Capabilities and Management
Government Accountability Office

Mr. John L. Crum, Ph.D.
Director, Office of Policy and Evaluation
U.S. Merit Systems Protection Board

Mr. Darryl Perkinson
National President
Federal Managers Association

Without objection, all the written testimony will be included in the record.

Mr. Bunn, welcome.

Thank you for the information you provided to our staff in a pre-briefing.

Please proceed with your opening remarks.

Opening Remarks by Ranking Member Randy Forbes

Readiness Hearing
Department of Defense National Security Personnel System
1 April, 2009

Mr. Chairman, this hearing is important because it provides us an opportunity to gather relevant information and perspectives about the future of the National Security Personnel System.

I can think of few programs that this subcommittee has dealt with that were more controversial, more revolutionary, or more challenging to implement than NSPS. So I agree with the President's directive to the Department of Defense to conduct a comprehensive review of NSPS.

The Congress, primarily on initiatives originating in this subcommittee, made significant changes to NSPS in the 2008 Defense Authorization Act. And I believe we will again be faced with more decisions regarding NSPS once the recommendations and findings of the Department's review are known and acted on by the President. Until we know and have had a chance to analyze what the President proposes, I would caution the subcommittee from taking action to significantly change NSPS.

Paying employees for the quality of their work is an underlying principle of most businesses, and it should be an underlying principle in government. This is one of the underlying principles of NSPS, and I agree with this principle. The belief that people should be paid based on what they contribute is why so many are rightfully upset that AIG executives took home millions of dollars while their company was driven into the ground. The soundness of this principle is why the President has challenged our Nation to provide extra pay to outstanding teachers, while insisting that we "stop making excuses for the bad ones."

However, based on the reports of GAO and others, the implementation of a pay for performance system has been problematic. As we get to the questioning of our witnesses today, I would like to further explore with them what needs to be changed in NSPS to improve the pay for performance system and establish the credibility of it in the perception of NSPS managers and employees.

I am also interested in what alternatives the Department has to implementing the principle that we should reward those who are outstanding and ensure the few bad apples are removed from the important work that is nothing less than protecting our national security.

So, Mr. Chairman, I join you in welcoming our witnesses and look forward to their testimony.

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STATEMENT OF

MR. BRADLEY BUNN
PROGRAM EXECUTIVE OFFICER
NATIONAL SECURITY PERSONNEL SYSTEM
DEPARTMENT OF DEFENSE

BEFORE THE

COMMITTEE ON ARMED SERVICES
READINESS SUBCOMMITTEE
UNITED STATES HOUSE OF REPRESENTATIVES

ON

NATIONAL SECURITY PERSONNEL SYSTEM:
THE WAY FORWARD

APRIL 1, 2009

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Mr. Chairman, Mr. Forbes, and distinguished members of the Subcommittee: Thank you for the opportunity to speak with you about the National Security Personnel System (NSPS) at the Department of Defense (DoD). NSPS implementation remains a critical area of focus for the Department; as of today we have over 200,000 employees operating under the system. I'd like to give you an update on implementation, challenges the Department has encountered, and what is being considered in the upcoming review being undertaken on NSPS.

You called this hearing to discuss NSPS and the way forward and specifically hear from the Department about its perspectives on NSPS. We are in our third year of implementation, and like any major transformation initiative, we have had our share of both challenges and successes. As we consider how to best move forward with NSPS, I can assure you that the Department is committed to operating fair, transparent, and effective personnel systems for our civilian workforce.

NSPS Implementation

In November of 2003, Congress authorized DoD to develop a more flexible civilian personnel management system – to improve our ability to execute our national security mission. In November 2005, after a comprehensive design process, the Department and the Office of Personnel Management (OPM) jointly published final NSPS regulations. In April 2006, the Department began its phased, or spiral, approach to deploying NSPS when approximately 11,000 employees from several DoD organizations were converted to the human resources provisions of NSPS, including pay banding, performance management, hiring and employment, and workforce reshaping. Between October 2006 and April 2007, we converted 108,000 employees; and between October 2007 and May 2008, an additional 70,000 employees. The most recent

conversions took place between October 2008 and February 2009, when an additional 14,000 civilians were moved under NSPS, bringing the total number of NSPS employees to approximately 205,000. Our implementation approach has been to convert only white collar non-bargaining unit employees to NSPS; however, there are currently 322 employees under NSPS who are represented by 16 bargaining units that organized after conversion to NSPS. The current NSPS population represents most of the civilian workforce that is eligible for conversion into NSPS, based on statutory and current policy parameters.

Before organizations converted to NSPS, there was a comprehensive and extensive initiative to train senior leaders, managers, supervisors, and employees on the core NSPS elements and on "soft" skills (for supervisors - how to coach and mentor employees, techniques for conducting effective performance conversations, and how to manage change; for employees - how to communicate and interact with their supervisor and focus on outcomes and results). This training was offered in a variety of formats and through diverse channels, from classroom instruction to online self-paced sessions, and represents one of the most extensive civilian-focused training initiatives ever undertaken by the Department. From the beginning of NSPS, we have worked hard to ensure that organizations have sufficient time and resources to prepare and train their workforce before moving under the system.

The Department recently announced that we are delaying further conversions of organizations into NSPS pending the outcome of the upcoming comprehensive review of NSPS. This decision affects approximately 2,000 employees in organizations scheduled to convert this spring. During the review, organizations and employees already covered by NSPS will continue to operate under current NSPS policies, regulations, and procedures. They will continue to hire, assign, promote, reward, and carry out other personnel actions necessary to accomplish their

missions. Before I address the review of NSPS, let me briefly describe where we are with the implementation and some of the key issues we are facing.

NSPS Regulatory Structure

The original NSPS statute was enacted in November 2003, and provided the Secretary of Defense, in regulations prescribed jointly with the Director of OPM, the authority to establish a flexible and contemporary civilian personnel system called the National Security Personnel System. NSPS was originally intended to cover most of the approximately 700,000 DoD civilian employees. Among its features, the original statute provided authority to establish a pay-for-performance system that recognizes and rewards employees based on performance and contribution to the mission; a broad pay-banding system to replace the 15 grades of the General Schedule; a simplified job classification process and flexible processes to assign new or different work; streamlined hiring processes and the ability to offer more competitive, market-sensitive compensation; reduction-in-force procedures with greater emphasis on performance as a factor in retention; expedited disciplinary and employee appeals processes for faster resolution of workplace issues; and a unique labor-management relations system. The Department and OPM jointly published final NSPS regulations in November 2005.

In the National Defense Authorization Act (NDAA) for Fiscal Year 2008 (Public Law 110-181), Congress made significant changes to the underlying NSPS statute, including repealing most of the provisions covering labor relations, adverse actions and appeals, and reduction in force. The core features of NSPS that were initially implemented were left essentially intact, including the pay banding and classification structure, compensation flexibilities, and the performance management system. The Duncan Hunter NDAA for FY2009

provided clarifying language regarding the NSPS staffing and employment provisions. Over the last year, the Department and OPM engaged in the rulemaking process to revise the NSPS regulations to conform to these statutory requirements. Final NSPS regulations for classification, pay, and performance management were published on September 26, 2008, while the final rule covering staffing and employment was published on January 16, 2009.

Major changes brought about by NDAA for FY2008 and are reflected in the revised regulations include:

(a) Organizations under NSPS follow government-wide rules for labor-management relations, disciplinary and adverse actions, employee appeals of adverse actions, and reduction in force;

(b) Federal Wage System (blue collar) employees are excluded by statute from coverage under NSPS;

(c) All NSPS employees with a performance rating above "unacceptable" or who do not have a current performance rating receive at least 60 percent of the annual General Schedule base pay increase, with the remaining amount (up to 40 percent) allocated to pay pools for the purpose of increasing rates of pay based on performance; and

(d) All NSPS employees under locality pay with a performance rating above "unacceptable" or who do not have a current performance rating receive locality pay in the same manner and extent as General Schedule employees. The statute also now requires that the regulations jointly prescribed by the Department and OPM be done so through the major rulemaking process, which includes public notice and opportunity for comment, as well as application of the Congressional Review Act. In addition, the statute accords these jointly prescribed regulations the status of government-wide rules for the purpose of collective

bargaining under the labor-management relations statute when the rules are uniformly applicable to all organizational or functional units included in NSPS.

In addition to conforming the regulations to these statutory changes, the Department and OPM modified the NSPS regulations based on what we learned from two years of operational experience under the system. Some of the more significant changes include:

(1) more detailed and specific guidance in the area of pay setting and compensation to address issues we encountered with the movement of employees into NSPS from other pay systems and vice versa;

(2) provisions for performance payouts when employees are on extended and approved paid leave;

(3) expansion of the performance rating reconsideration process to include the ability for employees to challenge the rating of an individual job objective in addition to the overall rating of record;

(4) a requirement for organizations to share with employees aggregate pay pool results (including average rating, ratings distribution, share value, and average payout) at the completion of the performance payout process to promote transparency of the pay pool process.

The staffing and employment subpart of the NSPS regulations was issued jointly by the Department and OPM to complete the regulatory structure for NSPS. This subpart covers rules pertaining to methods for recruitment for, and appointment to, NSPS positions and the methods for assignment, reassignment, detail, transfer, and promotion of employees into and within NSPS. The rule conforms to changes made in NDAA for FY2008 and the Duncan Hunter NDAA for FY2009, including the application of government-wide collective bargaining rules and continued adherence to veterans' preference requirements. These recently published

regulations reflect the Department's need for flexibility to attract, recruit, and retain a high quality workforce to meet its critical mission worldwide and respond quickly to a dynamic national security environment.

January 2009 Rating and Payout Results

This past January, the Department completed its third cycle under the NSPS pay-for-performance system, resulting in performance evaluations and payouts for close to 170,000 employees. For many, however, this was the first year under the system, since we added approximately 70,000 employees during fiscal year 2008. NSPS was designed to promote a performance culture in which performance expectations are aligned to the mission and organization goals, and the performance and contributions of civilians are better recognized and rewarded. The NSPS performance management system provides a rigorous and robust method for appraising and evaluating employee performance based on standard performance benchmarks, with safeguards in place to ensure employees are treated equitably and fairly. The pay-for-performance system represents perhaps the most significant change for our workforce, and is generally the source of most of the concerns regarding NSPS. I'd like to share with you some highlights of this year's results.

Last fall, over 1,600 NSPS pay pool panels convened to review and finalize performance assessments and appraisals, and allocate performance-based salary increases and bonuses. The pay pool process, which has a proven track record in our personnel demonstration projects, was designed to ensure that performance ratings and related pay decisions within an organization are accomplished in a consistent, fair, and rigorous manner. The pay pool process ensures that managers and supervisors apply consistent standards when rating employees and includes a

structured way for leaders to discuss individual and team performance within the context of mission and organizational goals.

Under NSPS, employees are evaluated on a five-level rating system, with “1” being unacceptable, “3” being a valued performer, and “5” representing role model performance. Of the approximately 170,000 employees rated last year, 55.4 percent received a Level 3 (Valued Performer); 38.3 percent received a Level 4 (Exceeds Expectations); and 4.7 percent received a Level 5 (Role Model). Less than two percent (1.3) of employees received a Level 2 (Fair), and only .3 percent received a Level 1 (Unacceptable) rating. The system was designed to achieve meaningful differentiation in levels of performance and the associated rewards based on rigorous standards. The benchmark for performance at the highest rating level represents a high bar, and is reserved for employees contributing exceptional results for the organization. Because NSPS is a pay-for-performance system, these performance ratings drive salary increases and bonuses, with exceptional performers receiving greater rewards, and unacceptable performers receiving no increase or bonus. This past year, the average performance-based salary increase was 3.67 percent, with an average cash bonus of 1.94 percent. All NSPS employees rated above unacceptable received an additional general base salary increase of 1.74 percent and an average locality increase of 1.0 percent (actual locality increases varied by location and were applied in the same manner and extent as General Schedule locality pay). The average total salary increase for NSPS employees in January 2009 was 6.41 percent. (This does not consider other salary increases NSPS employees may receive at other times, such as promotion increases, reassignment increases, special performance increases, and special accelerated increases for developmental employees.)

To ensure fairness in the system, a number of safeguards have been built into the process.

In addition to uniform performance measurement criteria across NSPS, there are multiple-level reviews of recommended ratings, share assignments, and payout distribution determinations. Not only does the supervisor/rating official offer a recommended rating based on an overall assessment of the employee's accomplishments, but these recommended ratings receive a higher-level review prior to the pay pool process. The pay pool panels also review and reconcile performance ratings to ensure consistency across the organization. Pay pool panel results are subject to a final review and approval by senior leadership, known as the Performance Review Authority. Also, NSPS regulations prohibit the practice of "forced distribution," or the establishment of a predetermined distribution of ratings across the five levels. Employees also have the right to challenge their performance rating through a formal reconsideration process.

Key Successes and Challenges

NSPS represents a significant change, particularly in the area of pay and performance management. The performance management system was designed to align individual performance plans to organizational goals, and increase the communication between employees and supervisors about performance. The pay-for-performance system was designed to compensate and reward our civilian employees based on their performance and contribution. We knew from our experience with personnel demonstration projects that employees must perceive the evaluation system as fair and credible in order to gain the necessary buy-in, so we included various safeguards in the process. Recognizing that this kind of cultural shift takes time, we have been paying close attention to the perceptions and attitudes of the workforce, to assess our implementation and design, with an eye towards improving the system. Some common themes, both positive and negative, have emerged.

Our performance rating and payout results demonstrate that NSPS organizations are making meaningful distinctions in performance and the associated rewards. We are also seeing improvement in communication between employees and supervisors, and better alignment between performance plans and organizational mission and goals. In the 2008 DoD Status of Forces Civilian Survey, 70 percent of NSPS employees answered positively that their performance standards are directly linked to their organization's mission, compared to 65 percent of the non-NSPS workforce. When asked if they believe pay raises depend on how well employees perform their jobs, 42 percent of NSPS employee responded positively, compared to 25 percent of non-NSPS employees. Sixty percent of NSPS employees agreed that performance drives bonuses and cash awards, compared to 55 percent of the non-NSPS workforce. NSPS employees, overall, are generally more satisfied with their pay and the management in their organizations than their non-NSPS counterparts. And, according to the 2008 survey, NSPS employees are less likely than non-NSPS employees to leave DoD for another job. While these survey results indicate positive attitudes among NSPS employees regarding some aspects of the pay and performance management system, there are other indicators that are less positive. Employees and supervisors are struggling with the more stringent performance measures used in the evaluation process, and employees are questioning whether the ratings are fair. Some of the concern is over whether supervisors have the skills necessary to fairly assess performance, while others question the appropriateness of the pay pool panels being involved in performance ratings. Employees and supervisors, particularly those who are new in the system, often struggle to define measurable, results-oriented job objectives, and have difficulty in writing narrative assessments. We have also heard the concerns from employees and supervisors about the transparency of the pay pool process, and whether forced distribution is occurring despite our

prohibition on the practice.

Both the Government Accountability Office and OPM, in their formal assessments of NSPS, highlighted many of these issues, and pointed out that these kinds of reactions and perceptions are typical of broad change management initiatives like NSPS. They also recognize that it generally takes three to five years for new personnel systems to gain acceptance. However, the Department has taken steps to address many of these concerns. For example, we expanded our pay pool training offerings to include employees and supervisors who do not typically participate in pay pool panels but could benefit from a better understanding of how the process works. We enhanced our online training tools and automated performance management system to provide more help to employees and supervisors in developing job objectives and writing assessments. To address the issue of transparency, we revised our policies to require that organizations share aggregate pay pool results with employees, so they have a better understanding of how they fared compared to the rest of the workforce. In addition, my office is in the process of developing guidance for organizations designed to ensure that forced distribution of ratings is not occurring in the rating and pay pool panel process.

To address additional concerns over fairness and equity in the performance management process, the Department added a requirement to its NSPS policies that Defense Components annually conduct a thorough analysis of pay pool results to identify, examine, and remove barriers to similar rating and payout potential for demographic and other groups in the workforce, apart from differences based on individual performance or material job differences.

The Department has an on-going evaluation effort to monitor effectiveness and receive feedback on NSPS, including continuous learning through monitoring and lessons learned discussions, annual surveys of the DoD civilian workforce (including targeted sampling of NSPS

employees), field visits and focus groups with NSPS organizations, leadership meetings, and lessons learned workshops. In addition to internal reviews, the Department continues to work with OPM and GAO in their assessments of NSPS. OPM's 2007 report affirmed DoD's implementation preparations, concluding that DoD effectively planned for implementing NSPS and structured a well-organized and integrated phased implementation approach. OPM's 2008 report concluded there has been progress in all dimensions assessed (performance expectations are aligned to mission priorities, the workforce is held accountable to perform, and distinctions are made in employee performance and associated compensation), but cautioned that workforce attitudes about the performance system declined after the first year of its operations, noting that while such declines are normal with this kind of system transformation, DoD should pay attention to fairness and continue to share lessons learned. GAO also studied workforce attitudes and performance system safeguards and accountability mechanisms in 2008 (and will continue to do so through calendar year 2010), as mandated by NDAA for FY2008. GAO's 2008 report found that many safeguards exist, but workforce opinions suggested areas and room for improvement. GAO is currently conducting field visits for its 2009 report. Both OPM and GAO noted that when there is a major change to a personnel system, employee attitudes and perceptions typically decline initially as it generally takes from three to five years for employees to fully understand and accept the new system.

Comprehensive Review of NSPS

On March 16, 2009, the Department and OPM announced a review of NSPS to assess whether the program is fair, transparent, and effective. In addition, the Department decided to delay any further conversions of organizations to NSPS pending the outcome of this review.

Although we are working out the details of the review with OPM, the review will include a thorough examination of all NSPS policies, regulations, and practices. With over 200,000 employees in the system, and with new leadership under a new administration, the Department and OPM determined that it is appropriate and important for senior leadership to review the program, its underlying policies, and how it operates, before deciding on the future of the system. Currently DoD and OPM are engaged in discussions with key personnel in the administration to determine the overall framework, scope, and timeline of the review, including identifying who will lead it. It is expected to take several months for a review team to gather necessary information and data, reach out to stakeholders, and develop recommendations for leadership consideration. I can assure you that Deputy Secretary Lynn recognizes that there are a variety of viewpoints regarding NSPS, and is committed to a thorough examination that includes outreach to Congress, other Federal agencies, personnel management experts, labor organizations, and other stakeholders.

You asked that we discuss what is being considered in the program review. We expect that it will include a review of the underlying design principles of NSPS, including the guiding principles and key performance parameters found in the operational requirements document, and the extent to which the system is achieving its goals. We expect the review to also focus on key issues of fairness and transparency, not only in the design but also in the implementation. Another key issue to be examined is the effect of operating under NSPS for the non-bargaining unit workforce and the General Schedule system for our bargaining unit employees, and the challenges associated with that approach.

Although there exists a substantial amount of information, data, reports, and documents on NSPS, it is likely that the review will include visits to organizations operating under NSPS, to

Speak directly to employees, supervisors, and senior leaders under the system, to gain their perspective and hear their concerns. The team may also obtain views on NSPS from labor unions, managers' and professional associations, employee groups, Members of Congress and their staff, and recognized experts in personnel management.

The goal of the review is to obtain an objective, thorough assessment of the program, resulting in recommendations to the Deputy Secretary and the Director, OPM, on a way forward for NSPS.

Conclusion

The Department is committed to an open, ongoing process of communication and consultation about NSPS with Congress, our employees and their representatives, and key stakeholders.

Thank you for your ongoing support of our DoD civilian workforce, and for providing me this opportunity to share our experiences with NSPS. I look forward to your questions.

United States Government Accountability Office

GAO

Testimony
Before the Subcommittee on Readiness,
Committee on Armed Services, House of
Representatives

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HUMAN CAPITAL

Improved Implementation of Safeguards and an Action Plan to Address Employee Concerns Could Increase Employee Acceptance of the National Security Personnel System

Statement of Brenda S. Farrell, Director
Defense Capabilities and Management



April 1, 2009

HUMAN CAPITAL

Improved Implementation of Safeguards and an Action Plan to Address Employee Concerns Could Increase Employee Acceptance of the National Security Personnel System



Highlights

Highlights of GAO-09-464T, a testimony before the Subcommittee on Readiness, Committee on Armed Services, House of Representatives

Why GAO Did This Study

The Department of Defense (DOD) is in the process of implementing its new human capital system for managing civilian personnel—the National Security Personnel System (NSPS). Key components of NSPS include compensation, classification, and performance management. Implementation of NSPS could have far-reaching implications, not just for DOD, but for civil service reform across the federal government. As of February 2009, about 205,000 civilian employees were under NSPS. Based on GAO's prior work reviewing performance management in the public sector, GAO developed an initial list of safeguards that NSPS should include to ensure it is fair, effective, and credible. In 2008, Congress directed GAO to evaluate, among other things, the extent DOD implemented accountability mechanisms, including those in 5 U.S.C. section 9902(b)(7) and other internal safeguards in NSPS.

This statement is based on GAO's September 2008 report, which determined (1) the extent to which DOD has implemented internal safeguards to ensure NSPS was fair, effective, and credible; and (2) how DOD civilians perceive NSPS and what actions DOD has taken to address these perceptions. For that report, GAO analyzed relevant documents and employee survey results; interviewed appropriate officials; and conducted discussion groups at 12 selected installations. GAO recommended ways to better address the safeguards and employee perceptions.

View GAO-09-464T or key components. For more information, contact Brenda S. Farrell at (202) 512-3604 or farrellb@gao.gov.

What GAO Found

While DOD has taken some steps to implement internal safeguards to ensure that NSPS is fair, effective, and credible, in late 2008, GAO found that the implementation of three safeguards could be improved. First, DOD does not require a third party to analyze rating results for anomalies prior to finalizing ratings, and thus it does not have a process to determine whether ratings are nondiscriminatory before they are finalized. Without a predecisional analysis, employees may lack confidence in the fairness and credibility of NSPS. To address this finding, GAO recommended that DOD require predecisional demographic and other analysis; however, DOD did not concur, stating that a postdecisional analysis is more useful. GAO continues to believe this recommendation has merit. Second, the process lacks transparency because DOD does not require commands to publish final rating distributions, though doing so is recognized as a best practice by DOD. Without transparency over rating distributions, employees may not believe they are being rated fairly. To address this finding, GAO recommended that DOD require publication of overall final rating results. DOD concurred with this recommendation and in 2008 revised its guidance to require such publication. Third, NSPS guidance may discourage rating officials from making meaningful distinctions in employee ratings because it indicated that the majority of employees should be rated at the "3" level, on a scale of 1 to 5, resulting in a hesitancy to award ratings in other categories. Unless implementation of NSPS encourages meaningful distinctions in employee performance, employees may believe there is an unspoken forced distribution of ratings, and their confidence in the system will be undermined. To address this finding, GAO recommended that DOD encourage pay pools and supervisors to use all categories of ratings as appropriate. DOD partially concurred with this recommendation, but has not yet taken any action to implement it.

Although DOD employees under NSPS responded positively regarding some aspects of performance management, DOD does not have an action plan to address the generally negative employee perceptions of NSPS. According to DOD's survey of civilian employees, generally employees under NSPS are positive about some aspects of performance management, such as connecting pay to performance. However, employees who had the most experience under NSPS showed a negative movement in their perceptions. For example, the percent of NSPS employees who believe that NSPS will have a positive effect on DOD's personnel practices declined from an estimated 40 percent in 2006 to 23 percent in 2007. Some negative perceptions also emerged during discussion groups that GAO held. For example, employees and supervisors were concerned about the excessive amount of time required to navigate the process. While it is reasonable for DOD to allow employees some time to accept NSPS, not addressing persistent negative employee perceptions could jeopardize employee acceptance and successful implementation of NSPS. As a result, GAO recommended that DOD develop and implement an action plan to address employee concerns about NSPS. DOD partially concurred with GAO's recommendation, but has not yet developed an action plan.

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to discuss our most recent report on actions needed to improve the implementation of the Department of Defense's (DOD) new human capital system for managing civilian personnel—the National Security Personnel System (NSPS).¹ The implementation of NSPS could have far-reaching implications for civil service reform across the federal government, because NSPS could serve as a baseline for governmentwide transformation in human capital. Key components of NSPS include compensation, classification, and performance management. As you know, DOD is in the process of implementing NSPS, which, as of February 2009, had about 205,000 civilian employees under the system. On February 11, 2009, the House Armed Services Committee and this subcommittee asked DOD to halt conversions of any additional employees to NSPS until the administration and Congress could properly address the future of DOD's personnel management system. Further, DOD and the Office of Personnel Management announced on March 16, 2009, that they are going to review NSPS policies, regulations, and practices. According to DOD, the department has delayed any further transitions of employees into NSPS until at least October 2009—pending the outcome of its review.

Prior to the enactment of the NSPS legislation, we raised a number of critical issues, in a series of testimonies in 2003, about the proposed regulations for NSPS.² Since then, we have provided congressional committees with information and analyses on DOD's process to design its new personnel management system, the extent to which DOD's process reflects key practices for successful transformation, the need for internal controls and transparency of funding, and the most significant challenges

¹GAO, *Human Capital: DOD Needs to Improve Implementation of and Address Employee Concerns about Its National Security Personnel System*, GAO-08-773 (Washington, D.C.: Sept. 10, 2008).

²GAO, *Defense Transformation: Preliminary Observations on DOD's Proposed Civilian Personnel Reforms*, GAO-03-717T (Washington, D.C.: Apr. 29, 2003); *Defense Transformation: DOD's Proposed Civilian Personnel Systems and Governmentwide Human Capital Reform*, GAO-03-741T (Washington, D.C.: May 1, 2003); and *Human Capital: Building on DOD's Reform Efforts to Foster Governmentwide Improvements*, GAO-03-851T (Washington, D.C.: June 4, 2003).

facing DOD in implementing NSPS.³ While GAO supports human capital reform in the federal government, how such reform is done, when it is done, and the basis upon which it is done can make all the difference in whether such efforts are successful. Specifically, we have noted in testimonies and reports that DOD and other federal agencies must ensure that performance management systems contain appropriate internal safeguards. Implementing internal safeguards is a way to ensure that pay-for-performance systems in the government are fair, effective, and credible. We developed an initial list of safeguards based on our extensive body of work looking at the performance management practices used by leading public sector organizations both in the United States and in other countries, as well as on our experiences in implementing a modern performance management system for staff at GAO.⁴ Additionally, the National Defense Authorization Act for Fiscal Year 2008 required us to determine the extent to which DOD had effectively incorporated certain specific accountability mechanisms and internal safeguards (both of which I refer to as safeguards) in NSPS and to assess employee attitudes toward NSPS.⁵ The safeguards we used in our review included the following:

- involve employees, their representatives, and other stakeholders in the design of the system, to include employees directly involved in validating any related implementation of the system;
- assure that the agency's performance management system links employee objectives to the agency's strategic plan, related goals, and desired outcomes;

³GAO, *Human Capital: DOD Needs Better Internal Controls and Visibility over Costs for Implementing Its National Security Personnel System*, GAO-07-851 (Washington, D.C.: July 16, 2007); and *Human Capital: Observations on Final Regulations for DOD's National Security Personnel System*, GAO-06-227T (Washington, D.C.: Nov. 17, 2006).

⁴GAO, *Post-Hearing Questions for the Record Related to the Department of Defense's National Security Personnel System (NSPS)*, GAO-06-582R (Washington, D.C.: Mar. 24, 2006); and *Posthearing Questions Related to Strategic Human Capital Management*, GAO-03-779R (Washington, D.C.: May 22, 2003).

⁵Pub. L. No. 110-181, § 1106(c) (2008). Specifically, section 1106(c)(1)(B) directs GAO to conduct reviews in calendar years 2008-2010 to evaluate the extent to which the Department of Defense has effectively implemented accountability mechanisms, including those established in 5 U.S.C. section 9902(b)(7) and other internal safeguards. The accountability mechanisms specified in 5 U.S.C. section 9902(b)(7) include those that GAO previously identified as internal safeguards key to successful implementation of performance management systems.

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- implement a pay-for-performance evaluation system to better link individual pay to organizational performance, and provide an equitable method for appraising and compensating employees;
 - provide adequate training and retraining for supervisors, managers, and employees in the implementation and operation of the performance management system;
 - institute a process for ensuring ongoing performance feedback and dialogue between supervisors, managers, and employees throughout the appraisal period, and setting timetables for review;
 - assure that certain predecisional internal safeguards exist to help achieve consistency, equity, nondiscrimination, and nonpoliticization of the performance management process (e.g., independent reasonableness reviews by a third party or reviews of performance rating decisions, pay determinations, and promotions before they are finalized to ensure that they are merit-based, as well as pay panels who consider the results of the performance appraisal process and other information in connection with final pay decisions);
 - assure that there are reasonable transparency and appropriate accountability mechanisms in connection with the results of the performance management process, including periodic reports on internal assessments and employee survey results relating to performance management and individual pay decisions while protecting individual confidentiality;
 - assure that the agency's performance management system results in meaningful distinctions in individual employee performance; and
 - provide a means for ensuring that adequate agency resources are allocated for the design, implementation, and administration of the performance management system.

My statement focuses on the performance management aspect of NSPS—specifically (1) the extent to which DOD has implemented internal safeguards to ensure the fairness, effectiveness, and credibility of NSPS; and (2) how DOD civilian personnel perceive NSPS and what actions DOD has taken to address these perceptions. It is based on the work we conducted for our September 2008 report⁶ that was conducted in response to a mandate in the National Defense Authorization Act for Fiscal Year 2008. This mandate also directed us to continue examining DOD efforts in these areas for the next 2 years. We currently have ongoing work reviewing the implementation of NSPS for the second year, and we will

⁶GAO, *Human Capital: DOD Needs to Improve Implementation of and Address Employee Concerns about Its National Security Personnel System*. GAO-08-773 (Washington, D.C.: Sept. 10, 2008).

also perform another review next year. To determine the extent to which DOD had implemented safeguards to ensure the fairness, effectiveness, and credibility of NSPS, we identified, as mentioned before, safeguards specified in the National Defense Authorization Act for Fiscal Year 2008, as well as other key internal safeguards that GAO had previously identified, and analyzed regulations and other guidance provided by officials in DOD and the four components' headquarters—the Army, Navy, Air Force, and Fourth Estate.⁷ We also reviewed documents, such as pay pool business rules and regulations, that we obtained during 12 site visits—3 for each component—to military installations. Further, we interviewed appropriate agency officials at various levels within DOD and conducted interviews with officials of various management levels at each site we visited. The sites were selected because they contained a large number or concentrated group of civilian employees that had been placed under NSPS and were geographically distributed throughout the United States. In addition, to determine how DOD civilian employees perceive NSPS, we analyzed the results of DOD's May 2006, November 2006, and May 2007 Status of Forces Survey of civilian employees—the most recent surveys available at the time of our review.⁸ These surveys gauge initial employee attitudes toward NSPS, and we began to identify changes in attitudes in our analysis. We also conducted small group discussions with employees and supervisors at each of the 12 sites we visited. While the information from our discussion groups is not generalizable to the entire population of DOD civilians, it provides valuable insight into civilians' perceptions about the implementation of NSPS. We conducted our work in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

⁷The Department of the Navy's NSPS policies encompass Marine Corps civilians. The Fourth Estate includes all organizational entities in DOD that are not in the military departments or the combatant commands, for example, the Office of the Secretary of Defense, the Joint Staff, the Office of the DOD Inspector General, the defense agencies, and DOD field activities.

⁸The estimated percentages from the Status of Forces Survey of civilian employees are based on a 95 percent confidence interval and margin of error within +/-2 percent as reported in DOD's Defense Manpower Data Center's Status of Forces Survey of civilian employees. For further details about the survey, see GAO-08-773.

DOD Has Taken Steps to Implement Internal Safeguards to Ensure Fairness of NSPS; However, Implementation of Three Safeguards Could Be Improved

While DOD has taken some steps to implement internal safeguards to ensure that the NSPS performance management system is fair, effective, and credible, we found in late 2008 that the implementation of three of these safeguards could be improved. Specifically, we reported that DOD had taken some steps to (1) involve employees in the system's design and implementation; (2) link employee objectives and the agency's strategic goals and mission; (3) train and retrain employees in the system's operation; (4) provide ongoing performance feedback between supervisors and employees; (5) better link individual pay to performance in an equitable manner; (6) allocate agency resources for the system's design, implementation, and administration; (7) include predecisional internal safeguards to determine whether rating results are consistent, equitable, and nondiscriminatory; (8) provide reasonable transparency of the system and its operation; and (9) impart meaningful distinctions in individual employee performance. For example, all 12 sites we visited trained employees on NSPS, and the DOD-wide tool used to compose self-assessments links employees' objectives to the commands' or agencies' strategic goals and mission. We believe continued monitoring of all of these safeguards is needed to ensure that DOD's actions are effective as implementation proceeds and more employees become covered by NSPS. We also determined that DOD could immediately improve its implementation of three safeguards: predecisional internal safeguards, reasonable transparency, and meaningful distinctions in employee performance. The following paragraphs discuss our findings related to these safeguards and the resulting recommendations we made.

- *Predecisional internal safeguard:* DOD lacks a process to determine whether NSPS rating results are nondiscriminatory before they are finalized because it does not require a third party to analyze the predecisional rating results for anomalies. According to officials from the NSPS central policy office, the Program Executive Office, DOD does not require a predecisional analysis because of concerns that employees might perceive that pay pool panels adjusted their results even if assessments did not warrant changes. Program Executive Office officials also stated that DOD's analysis of final results by demographics is sufficient to ensure fairness and nondiscrimination. However, the purpose of analyzing predecisional rating results is to identify any potential egregious decisions or investigate any potential problems, such as blatant discrimination, in a transparent manner before finalizing the ratings. The purpose is not to change the results to portray an "ideal" distribution, or to alter the outcome of the performance management process. In short, this type of analysis is not intended to change the rating results unless a mistake was identified. Instead, identifying an anomaly in the data prior to finalizing the

rating decisions would enable management to investigate the situation and determine whether the results accurately reflect the employees' performance or whether an outside factor is affecting the results. Until DOD conducts a predecisional analysis of the rating results to identify possible trends or anomalies, employees may lack confidence in the fairness and credibility of the system. We, therefore, recommended that DOD require a third party to perform predecisional demographic and other analysis as appropriate for pay pools decisions. DOD did not concur with this recommendation, noting, among other things, that postdecisional analysis of results is more useful to identify barriers and corrective actions. We continue to believe that our recommendation has merit and that identifying an anomaly in the ratings prior to finalizing them would allow management to investigate the situation and determine whether any non-merit-based factors contributed to the anomaly.

- *Reasonable transparency:* DOD's implementation of NSPS does not provide adequate transparency over its rating results to employees because it does not require commands or pay pools to publish their respective rating and share distributions to employees. While DOD suggests that distributing aggregate data to employees is an effective means for providing transparency, and NSPS program officials at all four components told us that publishing overall results is considered a best practice, 3 of the 12 sites we visited decided not to publish the overall final rating and share distribution results. Without transparency over rating and share distributions, employees may believe they are not being rated fairly, which ultimately can undermine their confidence in the system. To address this finding, we recommended that DOD require overall final rating results to be published. In commenting on a draft of this report, DOD concurred with this recommendation and, in 2008, revised its NSPS regulations and guidance to require commands to publish the final overall rating results.
- *Meaningful distinctions in employee performance:* NSPS performance management guidance may discourage rating officials from making meaningful distinctions in employee performance because this guidance emphasized that most employees should be evaluated as a "3" (or "valued performer") on a scale of 1 to 5. According to NSPS implementing issuance, rating results should be based on how well employees complete their job objectives using the performance indicators. Although DOD and most of the installations we visited emphasized that there was not a forced distribution of ratings, some pay pool panel members acknowledged that there was a hesitancy to award employee ratings in categories other than "3". Unless NSPS is implemented in a manner that encourages meaningful distinctions in employee ratings in accordance with employees'

performance, employees may believe they are not rated fairly and that there is an unspoken forced distribution of ratings, and their confidence in the system may be undermined. As a result, we recommended that DOD encourage pay pools and supervisors to use all categories of ratings as appropriate. In commenting on a draft of this report, DOD partially concurred with our recommendation to encourage pay pools and supervisors to use all categories of ratings as appropriate, but to date it has not taken any action to implement this recommendation.

**DOD Civilian
Employees View
Some Aspects of
NSPS Positively, but
DOD Does Not Have a
Plan to Address the
Generally Negative
Employee
Perceptions of the
System**

Although DOD civilian employees under NSPS responded positively regarding some aspects of the NSPS performance management system, DOD does not have an action plan to address the generally negative employee perceptions of NSPS identified in both the department's Status of Forces Survey of civilian employees and discussion groups we held at 12 select installations. According to our analysis of DOD's survey from May 2007, NSPS employees expressed slightly more positive attitudes than their DOD colleagues who remain under the General Schedule system about some goals of performance management, such as connecting pay to performance and receiving feedback regularly. For example, an estimated 43 percent of NSPS employees compared to an estimated 25 percent of all other DOD employees said that pay raises depend on how well employees perform their jobs. However, responses from NSPS employees with the most experience under NSPS showed a downward movement in their attitude toward other elements of the system. For example, the estimated percentage of employees who agreed that their performance appraisal was a fair reflection of their performance declined from 67 percent in May 2006 to 52 percent in May 2007. In addition, the estimated percent of NSPS employees who believe that NSPS will have a positive effect on DOD's personnel practices dropped from 40 percent in May 2006 to 23 percent in May 2007. Our ongoing work on NSPS will review DOD's 2008 survey results.

Our discussion group meetings gave rise to views consistent with DOD's survey results. While some civilian employees and supervisors under NSPS seemed optimistic about the intent of the system, most of the DOD employees and supervisors we spoke with expressed a consistent set of wide-ranging concerns. Specifically, employees noted: (1) NSPS's negative effect on employee motivation and morale, (2) the excessive amount of time and effort required to navigate the performance management process, (3) the potential influence that employees' and supervisors' writing skills have on panels' assessments of employee ratings, (4) the lack of transparency and understanding of the pay pool panel process, and (5) the

rapid pace at which the system was implemented, which often resulted in employees feeling unprepared and unable to find answers to their questions. These negative attitudes are not surprising given that organizational transformations often entail fundamental and radical change that require an adjustment period to gain employee acceptance and trust.

To address employee attitudes and acceptance, the Office of Personnel Management issued guidance that recommends—and we believe it is a best practice—that agencies use employee survey results to provide feedback to employees and develop and implement an action plan that guides their efforts to address the results of employee assessments. However, according to Program Executive Office officials, DOD has not developed a specific action plan to address critical issues identified by employee perceptions, because they want employees to have more time under the system before making changes. Without such a plan, DOD is unable to make changes that address employee perceptions that could result in greater employee acceptance and, ultimately, the successful implementation of the performance management system.

We therefore recommended, in our September 2008 report,⁹ that DOD develop and implement a specific action plan to address employee perceptions of NSPS ascertained from DOD's surveys and employee focus groups. The plan should include actions to mitigate employee concerns about, for example, the potential influence that employees' and supervisors' writing skills have on the panels' assessment of employee ratings or other issues consistently identified by employees or supervisors. DOD partially concurred with our recommendation, noting that it will address areas of weakness identified in its comprehensive, in-progress evaluation of NSPS and that it is institutionalizing a continuous improvement strategy. To date, however, DOD has not developed an action plan.

Concluding Observations

DOD's implementation of a more performance- and results-based personnel system has positioned the agency at the forefront of a significant transition facing the federal government. We recognize that DOD faces many challenges in implementing NSPS, as any organization would in implementing a large-scale organizational change. NSPS is a new

⁹GAO-08-773.


program, and organizational change requires time for employees to accept. However, without a third party to analyze the predecisional results of the ratings, DOD cannot be certain that the NSPS performance management system is achieving consistency, equity, and nondiscrimination in the determination and assignment of employee ratings before those ratings are finalized. Similarly, unless DOD encourages pay pools to make meaningful distinctions in employee performance, as warranted by employees' performance as compared to the standards, employees may continue to feel devalued, which may result in deterioration of morale and motivation. Finally, until DOD develops an action plan and takes specific steps to mitigate negative employee perceptions of NSPS, DOD civilian employees will likely continue to question the fairness of their ratings and lack confidence in the system. The degree of ultimate success of NSPS is largely dependent upon the extent to which DOD incorporates these internal safeguards and addresses employee perceptions. Moving forward, as DOD and the Office of Personnel Management embark on a study of NSPS and review how NSPS operates and its underlying policies, DOD has a unique opportunity to consider our previous recommendations, as well as all of the internal safeguards key to ensuring that pay-for-performance systems in the government are fair, effective, and credible.

Mr. Chairman, this concludes my prepared statement. I would be happy to respond to any questions that you or members of the subcommittee may have at this time.

GAO Contact and Staff Acknowledgments

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Enclosure



GAO Highlights
Highlights of GAO-09-772, a report to congressional committees

September 2009

HUMAN CAPITAL

DOD Needs to Improve Implementation of and Address Employee Concerns about Its National Security Personnel System

Why GAO Did This Study

The Department of Defense (DOD) has begun implementing the National Security Personnel System (NSPS), its new human capital system for managing civilian personnel performance. As of May 2009, about 152,000 civilian employees were under NSPS. DOD's implementation of NSPS will have far-reaching implications for DOD and civil service reform across the federal government. Based on our prior work looking at performance management in the public sector and DOD's challenges in implementing NSPS, GAO developed an initial list of safeguards that NSPS should include to ensure it is fair, effective, and credible. Congress required GAO to determine (1) the extent to which DOD has implemented internal safeguards to ensure the fairness, effectiveness, and credibility of NSPS; and (2) how DOD civilian personnel perceive NSPS and what actions DOD has taken to address these perceptions. To conduct this work, GAO analyzed relevant documents and employee survey results, interviewed appropriate officials, and conducted discussion groups with employees and supervisors at 12 selected installations.

What GAO Recommends

GAO is recommending that DOD improve the implementation of some safeguards and develop and implement an action plan to address employee concerns about NSPS. DOD generally concurred with our recommendations, with the exception of one requiring predecisional review of ratings.


To view the full product, including the scope and methodology, click on GAO-09-772. For more information, contact Brenda S. Penell at (202) 512-2664 or bpenell@gao.gov.

What GAO Found

While DOD has taken some steps to implement internal safeguards to ensure that NSPS is fair, effective, and credible, the implementation of some safeguards could be improved. Specifically, DOD has taken steps to (1) involve employees in the system's design and implementation, (2) link employee objectives and agency goals, (3) train employees on the system's operation, (4) require ongoing performance feedback between supervisors and employees, (5) better link individual pay to performance, (6) allocate agency resources for the system, (7) include predecisional safeguards to determine if rating results are fair and nondiscriminatory, (8) provide reasonable transparency, and (9) provide meaningful distinctions in employee performance. GAO believes continued monitoring of all of these safeguards is needed to ensure that DOD's actions are effective as more employees become covered by NSPS. GAO also determined that DOD could immediately improve its implementation of three safeguards. First, DOD does not require a third party to analyze rating results for anomalies prior to finalizing employee ratings, and therefore it is unable to determine whether ratings are fair and nondiscriminatory before they are finalized. Second, the process lacks transparency because DOD does not require commands to publish final rating distributions, though doing so is recognized as a best practice by DOD and GAO. Third, NSPS guidance may discourage rating officials from making meaningful distinctions in employee ratings because it indicated that the majority of employees should be rated at the "3" level, on a scale of 1 to 5, resulting in a hesitancy to award ratings in other categories. Without steps to improve implementation of these safeguards, employee confidence in the system will ultimately be undermined.

Although DOD employees under NSPS are positive regarding some aspects of performance management, DOD does not have an action plan to address the generally negative employee perceptions of NSPS. According to DOD's survey of civilian employees, employees under NSPS are positive about some aspects of performance management, such as connecting pay to performance. However, employees who had the most experience under NSPS showed a negative movement in their perceptions. For example, the percent of NSPS employees who believe that NSPS will have a positive effect on DOD's personnel practices declined from 40 percent in 2006 to 23 percent in 2007. Negative perceptions also emerged during discussion groups that GAO held. For example, employees and supervisors were concerned about the excessive amount of time required to navigate the process. Although the Office of Personnel Management issued guidance recommending that agencies use employee survey results to provide feedback to employees and implement an action plan to guide their efforts to address employee assessments, DOD has not developed an action plan to address employee perceptions. While it is reasonable for DOD to allow employees some time to accept NSPS because organizational changes often require time to adjust, it is prudent to address persistent negative employee perceptions. Without such a plan, DOD is unable to make changes that could result in greater employee acceptance of NSPS.

United States Government Accountability Office



Highlights
Highlights of GAO-07-461, a report to congressional committees

July 2007

HUMAN CAPITAL

DOD Needs Better Internal Controls and Visibility over Costs for Implementing its National Security Personnel System

Why GAO Did This Study

Given a large-scale organizational change initiative, such as the Department of Defense's (DOD) National Security Personnel System (NSPS), is a substantial commitment that will take years to complete, it is important that DOD and Congress be kept informed of the full cost of implementing NSPS. Under the Comptroller General's authority to conduct evaluations on his own initiative, GAO analyzed the extent to which DOD has (1) fully estimated total costs associated with the implementation of NSPS and (2) expended or obligated funds to design and implement NSPS through fiscal year 2006. GAO interviewed department officials and analyzed the NSPS Program Executive Office's (PEO) and the military services' and the Washington Headquarters Services' (collectively referred to as the components) cost estimates and reports of expended and obligated funds.

What GAO Recommends

GAO recommends that DOD define all costs needed to manage NSPS, prepare a revised estimate of those costs for implementing the system in accordance with federal financial accounting standards, and develop a comprehensive oversight framework to ensure that all funds expended or obligated to design and implement NSPS are fully captured and reported. In reviewing a draft of this report, DOD generally concurred with GAO's recommendations.

www.gao.gov/gov/gaspr/GAO-07-461

To view the full product, including the scope and methodology, click on the link above. For more information, contact Derek Stewart at (202) 512-4529 or dswearb@gao.gov.

What GAO Found

DOD's November 2005 estimate that it will cost \$158 million to implement NSPS does not include the full cost that the department expects to incur as a result of implementing the new system. Federal financial accounting standards state that reliable information on the costs of federal programs and activities is crucial for effective management of government operations and recommend that full costs of programs and their outputs be provided to assist Congress and executives in making informed decisions on program resources and to ensure that programs get expected and efficient results. The full cost includes both those costs specifically identifiable to carry out the program, or direct costs, and those costs that are common to multiple programs but cannot be specifically identified with any particular program, or indirect costs. While the standards emphasize that full cost information is essential for managing federal programs, their activities, and outputs, the standards also provide that items may be omitted from cost information if that omission would not change or influence the judgment of a reasonable person relying on the cost information. Based on GAO's review of documentation provided by DOD and discussions with department officials, GAO found that DOD's estimate includes some direct costs, such as the start-up and operation of the NSPS PEO and the development and delivery of new NSPS training courses, but it does not include other direct costs such as the full salary costs of all civilian and military personnel who directly support NSPS activities departmentwide. Before developing its estimate, DOD had not fully defined all the direct and indirect costs needed to manage the program. Without a better estimate, decision makers—within DOD and Congress—will not have complete information about whether adequate resources are being provided for implementing NSPS.

The total amount of funds DOD has expended or obligated to design and implement NSPS during fiscal years 2006 through 2006 cannot be determined because DOD has not established an oversight mechanism to ensure that these costs are fully captured. In May 2006, the NSPS Senior Executive established guidance for tracking and reporting NSPS implementation costs that requires the components to develop mechanisms to capture these costs and to report quarterly their costs to the NSPS PEO. However, this guidance does not define the direct and indirect costs DOD requires that the components capture. DOD's pervasive financial management deficiencies have been the basis for GAO's designation of this as a high-risk area since 1995. GAO's review of submitted reports from the components found that their official accounting systems do not capture the total funds expended or obligated to design and implement NSPS. Without an effective oversight mechanism to ensure that the official accounting systems capture all appropriate costs, DOD and Congress do not have visibility over the actual cost to design and implement NSPS.

United States Government Accountability Office

GAO
Government Accountability Office

Highlights

Highlights of GAO-09-227T, a testimony by the Committee on Homeland Security and Governmental Affairs, U.S. Senate

Why GAO Did This Study

People are critical to any agency transformation, because they define an agency's culture, develop its knowledge base, promote innovation, and are its most important asset. Thus, strategic human capital management at the Department of Defense (DOD) can help it marshal, manage, and maintain the people and skills needed to meet its critical mission. In November 2008, Congress provided DOD with significant flexibility to design a modern human resources management system. On November 1, 2009, DOD and the Office of Personnel Management (OPM) jointly released the final regulations on DOD's new human resources management system, known as the National Security Personnel System (NSPS).

Several months ago, with the release of the proposed regulations, GAO observed that some parts of the human resources management system raised questions for DOD, OPM, and Congress to consider in the areas of pay and performance management, adverse actions and appeals, and labor management relations. GAO also identified multiple implementation challenges for DOD once the final regulations for the new system were issued.

This testimony provides GAO's overall observations on selected provisions of the final regulations.

www.gao.gov/cgi-bin/gettr?GAO-09-227T

To view the full product, including the scope and methodology, click on the link above. For more information, contact Derek B. Stewart at (202) 512-6659 or dstewart@gao.gov.

November 17, 2009

HUMAN CAPITAL

Observations on Final Regulations for DOD's National Security Personnel System

What GAO Found


GAO believes that DOD's final NSPS regulations contain many of the basic principles that are consistent with proven approaches to strategic human capital management. For instance, the final regulations provide for (1) a flexible, contemporary, market-based and performance-oriented compensation system—such as pay bands and pay for performance; (2) giving greater priority to employee performance in its retention decisions in connection with workforce right-sizing and reductions-in-force; and (3) involvement of employee representatives throughout the implementation process, such as having opportunities to participate in developing the implementing issuances. However, future actions will determine whether such labor relations efforts will be meaningful and credible.

Despite these positive aspects of the regulations, GAO has several areas of concern. First, DOD has considerable work ahead to define the important details for implementing its system—such as how employee performance expectations will be aligned with the department's overall mission and goals and other measures of performance, and how DOD would promote consistency and provide general oversight of the performance management system to ensure it is administered in a fair, credible, transparent manner. These and other critically important details must be defined in conjunction with applicable stakeholders. Second, the regulations merely allow, rather than require, the use of core competencies that can help to provide consistency and clearly communicate to employees what is expected of them. Third, although the regulations do provide for continuing collaboration with employee representatives, they do not identify a process for the continuing involvement of individual employees in the implementation of NSPS.

Going forward, GAO believes that (1) DOD would benefit from developing a comprehensive communications strategy, (2) DOD must ensure that it has the necessary institutional infrastructure in place to make effective use of its new authorities, (3) a chief management officer or similar position is essential to effectively provide sustained and committed leadership to the department's overall business transformation effort, including NSPS, and (4) DOD should develop procedures and methods to initiate implementation efforts relating to NSPS.

While GAO strongly supports human capital reform in the federal government, how it is done, when it is done, and the basis on which it is done can make all the difference in whether such efforts are successful. DOD's regulations are especially critical and need to be implemented properly because of their potential implications for related governmentwide reform. In this regard, in our view, classification, compensation, critical hiring, and workforce restructuring reforms should be pursued on a governmentwide basis before and separate from any broad-based labor-management or due process reforms.

United States Government Accountability Office



Highlights
Highlights of GAO-09-464T, a report to Congressional Committees

July 2009
HUMAN CAPITAL

DOD's National Security Personnel System Faces Implementation Challenges

Why GAO Did This Study

The Department of Defense's (DOD) new personnel system—the National Security Personnel System (NSPS)—will have far-reaching implications not just for DOD, but for civil service reform across the federal government. The National Defense Authorization Act for Fiscal Year 2004 gave DOD significant authorities to redesign the rules, regulations, and processes that govern the way that more than 700,000 defense civilian employees are hired, compensated, promoted, and disciplined. In addition, NSPS could serve as a model for governmentwide transformation in human capital management. However, if not properly designed and effectively implemented, it could severely impede progress toward a more performance- and results-based system for the federal government as a whole.

This report (1) describes DOD's process to design its new personnel management system, (2) analyzes the extent to which DOD's process reflects key practices for successful transformations, and (3) identifies the most significant challenges DOD faces in implementing NSPS.

What GAO Recommends

GAO is making recommendations to improve the comprehensiveness of the NSPS communication strategy and to evaluate the impact of NSPS. DOD did not concur with one recommendation and partially concurred with two others.

www.gao.gov/cgi-bin/gettr?GAO-09-464T

To view the full product, including the scope and methodology, click on the link above. For more information, contact Derek B. Stewart at (202) 512-6559 or dstewart@gao.gov.

What GAO Found

DOD's current process to design its new personnel management system consists of four stages: (1) development of design options, (2) assessment of design options, (3) issuance of proposed regulations, and (4) a statutory public comment period, a meet and confer period with employee representatives, and a congressional notification period. DOD's initial design process was unrealistic and inappropriate. However, after a strategic reassessment, DOD adjusted its approach to reflect a more cautious and deliberative process that involved more stakeholders.

DOD's NSPS design process generally reflects four of six selected key practices for successful organizational transformations. First, DOD and OPM have developed a process to design the new personnel system that is supported by top leadership in both organizations. Second, from the outset, a set of guiding principles and key performance parameters have guided the NSPS design process. Third, DOD has a dedicated team in place to design and implement NSPS and manage the transformation process. Fourth, DOD has established a timeline, albeit ambitious, and implementation goals. The design process, however, is lacking in two other practices. First, DOD developed and implemented a written communication strategy document, but the strategy is not comprehensive. It does not identify all key internal stakeholders and their concerns, and does not tailor key messages to specific stakeholder groups. Failure to adequately consider a wide variety of people and cultural issues can lead to unsuccessful transformations. Second, while the process has involved employees through town hall meetings and other mechanisms, it has not included employee representatives on the working groups that drafted the design options. It should be noted that 10 federal labor unions have filed suit alleging that DOD failed to abide by the statutory requirements to include employee representatives in the development of DOD's new labor relations system authorized as part of NSPS. A successful transformation must provide for meaningful involvement by employees and their representatives to gain their input into and understanding of the changes that will occur.

DOD will face multiple implementation challenges. For example, in addition to the challenges of continuing to involve employees and other stakeholders and providing adequate resources to implement the system, DOD faces the challenges of ensuring an effective, ongoing two-way communication strategy and evaluating the new system. In recent testimony, GAO stated that DOD's communication strategy must include the active and visible involvement of a number of key players, including the Secretary of Defense, for successful implementation of the system. Moreover, DOD must ensure sustained and committed leadership after the system is fully implemented and the NSPS Senior Executive and the Program Executive Office transition out of existence. To provide sustained leadership attention to a range of business transformation initiatives, like NSPS, GAO recently recommended the creation of a chief management official at DOD.

United States Government Accountability Office

GAO
Highlights

Highlights of GAO-09-464T, a report to congressional requesters

Why GAO Did This Study

The federal government is in a period of profound transition and faces an array of challenges and opportunities to enhance performance, ensure accountability, and position the nation for the future. High-performing organizations have found that to successfully transform themselves, they must often fundamentally change their cultures so that they are more results-oriented, customer-focused, and collaborative in nature. To foster such cultures, these organizations recognize that an effective performance management system can be a strategic tool to drive internal change and achieve desired results.

Based on previously issued reports on public sector organizations' approaches to reinforce individual accountability for results, GAO identified key practices that federal agencies can consider as they develop modern, effective, and credible performance management systems.

www.gao.gov/top-ovjgprpr/GAO-09-464T
To view the full report, including the scope and methodology, click on the link above.
For more information, contact J. Christopher Mihal at (202) 512-6806 or mihal@gao.gov.

March 2009

RESULTS-ORIENTED CULTURES

Creating a Clear Linkage between Individual Performance and Organizational Success

What GAO Found

Public sector organizations both in the United States and abroad have implemented a selected, generally consistent set of key practices for effective performance management that collectively create a clear linkage—"line of sight"—between individual performance and organizational success. These key practices include the following:

- 1. Align individual performance expectations with organizational goals.** An explicit alignment helps individuals see the connection between their daily activities and organizational goals.
- 2. Connect performance expectations to crosscutting goals.** Placing an emphasis on collaboration, interaction, and teamwork across organizational boundaries helps strengthen accountability for results.
- 3. Provide and routinely use performance information to track organizational priorities.** Individuals use performance information to manage during the year, identify performance gaps, and pinpoint improvement opportunities.
- 4. Require follow-up actions to address organizational priorities.** By requiring and tracking follow-up actions on performance gaps, organizations underscore the importance of holding individuals accountable for making progress on their priorities.
- 5. Use competencies to provide a fuller assessment of performance.** Competencies define the skills and supporting behaviors that individuals need to effectively contribute to organizational results.
- 6. Link pay to individual and organizational performance.** Pay, incentive, and reward systems that link employee knowledge, skills, and contributions to organizational results are based on valid, reliable, and transparent performance management systems with adequate safeguards.
- 7. Make meaningful distinctions in performance.** Effective performance management systems strive to provide candid and constructive feedback and the necessary objective information and documentation to reward top performers and deal with poor performers.
- 8. Involve employees and stakeholders to gain ownership of performance management systems.** Early and direct involvement helps increase employees' and stakeholders' understanding and ownership of the system and belief in its fairness.
- 9. Maintain continuity during transitions.** Because cultural transformations take time, performance management systems reinforce accountability for change management and other organizational goals.

United States General Accounting Office

Related GAO Products

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Human Capital: Building on DOD's Reform Efforts to Foster Governmentwide Improvements. GAO-03-851T. Washington, D.C.: June 4, 2003.

Results-Oriented Cultures: Creating a Clear Linkage between Individual Performance and Organizational Success. GAO-03-488. Washington, D.C.: March 14, 2003.

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Testimony of John Crum
Director, Office of Policy and Evaluation
U.S. Merit Systems Protection Board
Before the House Armed Services Readiness Subcommittee
April 1, 2009

Thank you for the opportunity to testify today regarding the challenges in the Federal hiring process for civilian employees. In addition to its adjudicatory mission, the U.S. Merit Systems Protection Board (MSPB) is charged by statute to conduct studies of the Federal civil service and other merit systems in the Executive branch to determine if the workforce is managed in accordance with the merit system principles and free from prohibited personnel practices. MSPB's Office of Policy and Evaluation conducts independent, nonpartisan, objective research to support the merit system values, enhance human resources (HR) management and ensure the public interest in a viable merit-based civil service. MSPB studies and reports are based on established scientific methods, which provides us with a unique perspective on the trends and issues that affect Federal human resources management.

Background

The Federal government's employees are its most vital asset. While the slowing economy may have delayed an expected retirement wave, retirement of large numbers of experienced Federal employees is inevitable. In addition, the Federal government is experiencing an increased need to hire high-quality employees quickly to meet new mission requirements established under the American Recovery and Reinvestment Act of 2009. Hiring policies and practices play key roles in ensuring that the government maintains a high-quality workforce capable of meeting these needs and the expectations of the American public, particularly in these challenging economic times. Because the Federal Government must be answerable to the American public, it is particularly important that its hiring decisions be based on merit and support the public's interests. Private businesses do not have the same responsibility to the public.

MSPB's research shows that the government has generally been successful in hiring talented employees with the skills necessary to carry out agency missions. The current economic situation may also provide the Federal government with an edge in the competition for talent because the government is currently hiring and can offer job candidates fairly stable and secure working conditions and benefits. The Federal government is therefore in a position to appeal to candidates who may not have considered working for the government in the past.

However, as the economy recovers, there are valid concerns as to the Federal government's ability to continue to attract and hire top talent, particularly those who have the variety of knowledge and skills sets needed by a particular agency. For example, some studies have shown that fewer new members of the Nation's workforce are prepared to take on jobs requiring highly technical skills such as jobs in science and engineering. As the demand for these skills increases and the supply of candidates with these skills decreases, competition will be intense. Effective recruitment and assessment, and hiring practices will be critical in building the Federal government's future workforce.

In November 2003, Congress granted the Department of Defense (DoD) the authority to establish a new civilian HR system. While the pay for performance aspect of this new system has received the vast majority of attention, the legislation also allowed DoD to redefine much of its hiring process to better meet its mission needs. DoD has cited many of the same challenges we see in other agencies as reasons for needing to establish new hiring flexibilities. Therefore, the research MSPB has conducted on Federal hiring and the recommendations we have offered to the President and Congress is particularly relevant to discussions regarding the National Security Personnel System (NSPS).

MSPB's research has identified a set of key challenges the Federal government faces in terms of recruiting and selecting the next generation of Federal employees. These

challenges are as applicable to alternative personnel systems, such as NSPS, as they are to the traditional Title 5 hiring process. These challenges include the length and complexity of the hiring process, the government's ability to market its jobs to attract high-quality applicants, the ability of government assessment tools to distinguish the most qualified candidates, the capacity of human resources staffs and supervisors to adequately carry out Federal hiring programs, and the fragmentation of Federal hiring reform that has resulted in short-term strategies rather than long-term solutions to hiring problems. I will discuss each of these issues in more depth.

Lengthy Process

One of the most commonly cited complaints about the Federal hiring process from both applicants and managers is that it takes too long. Using data from the U.S. Office of Personnel Management (OPM), the U.S. Government Accountability Office (GAO) reported in 2003 that it takes an average of 102 business days to complete all of the steps in the competitive hiring process (from making the request to fill the position to making the appointment).¹ Our research has shown that it is not uncommon for a candidate to wait 5 to 6 months or even more from the time he or she submits an application to the time he or she receives an employment offer. The longer the process takes, the more applicant attrition is likely to occur as candidates accept positions with other employers that use faster hiring processes.

We have seen some progress in this area. In recent surveys of entry-level and upper level new hires, MSPB found that approximately 41 percent of the respondents were hired in 2 months or less.² This is a good practice considering that our surveys have historically shown that new hires consider 2 months or less to be a reasonable amount

¹ U.S. Government Accountability Office, *Human Capital: Opportunities to Improve Executive Agencies' Hiring Processes*, GAO-03-450 (May 2003).

² Entry-level new hires are GS-5, 7 and 9 employees and upper level new hires are GS-12, 13, 14 and 15 employees, all appointed to full-time, non-seasonal, permanent positions in Executive Branch professional and administrative occupations.

of time for a hiring decision. However, approximately 28 percent of the respondents indicated that it took 5 months or more. Five months is too long to expect high-quality candidates to wait for a hiring decision. This is especially true for candidates who do not understand why the process takes so long. Anecdotal evidence indicates that applicants often submit applications for Federal jobs and do not hear anything from the agency to which they applied. This lack of communication creates frustration and many applicants may simply accept a position with an employer who shows interest in them and can make an offer more quickly. While the government is meeting the expectations of many of its new hires, there is still a long way to go.³

The hiring process used by individual agencies can be a barrier to timely hiring outcomes. The Partnership for Public Service worked with several Federal agencies to conduct “Extreme Hiring Makeovers” and improve their hiring processes. It came as a surprise to many of the participating agencies that their own internal processes caused unnecessary redundancies and delays. For example, one agency conducted process mapping exercises and found that there were 114 steps in its hiring process. These 114 steps included 45 hand-offs between managers, administrative staff, and HR personnel. In addition, at least 2 steps in the process required the approval of 10 or more officials. Most of these steps were self-imposed by the agency; not by external regulations, and in the final analysis, were unnecessary.⁴

Within the past few years, OPM has also been working with agencies to improve the timeliness of the process. For example, OPM has implemented new hiring flexibilities, such as category rating and developed new hiring authorities granted by Congress, including the Federal Career Intern Program, which should help improve timeliness.

³ From MSPB, *Attracting the Next Generation: A Look at Federal Entry-Level New Hires* (2008); *In Search of Highly Skilled Workers: A Study on the Hiring of Upper Level Employees From Outside the Federal Government* (2008); *Competing for Federal Jobs: Job Search Experiences of New Hires* (2000).

⁴ Partnership for Public Service, *Extreme Hiring Makeover: A Makeover that Matters*, presentation by Katie Malague, 2005.

OPM has also instituted an End-to-End Hiring Roadmap designed to assist agencies in streamlining their hiring activities. The Roadmap provides step-by-step guidelines that will help agencies achieve the goal of completing a hiring action in 34 calendar days, from the time the announcement is closed until a job offer is made. The Roadmap further sets a goal to complete the entire process, from identifying the need to fill a position to entry on duty, in 80 calendar days. OPM is working with agencies to achieve these ambitious goals. OPM has also been working with agencies to educate them about the hiring flexibilities currently available and has recently held sessions with agencies that have direct responsibility for carrying out portions of the American Recovery and Reinvestment Act of 2009. Finally, OPM continuously works with the Chief Human Capital Officers (CHCO) Council to identify additional hiring reforms and flexibilities that will expedite the process while protecting merit principles. We believe these are all valuable steps in trying to improve the process.

Process Complexity

The complexity of the process is another barrier to effectively recruiting and selecting a high-quality workforce. The Federal government has an extensive array of individual hiring authorities that can require different recruitment, application and assessment processes. In fact, the traditional competitive examining process is now being used for less than one-third of all new hires. The MSPB surveyed agency selecting officials in 2006 and found that these officials do not fully understand the various hiring authorities available to them. If Federal supervisors do not understand these authorities, we cannot reasonably expect applicants to know about or understand them.

Decentralization of the hiring process is a second factor that has added to its complexity. Agencies now administer hiring programs themselves. While decentralization enables agencies to tailor their recruitment and hiring strategies to better meet their mission requirements, it makes the overall process more complicated. There is no standard application and no uniform assessment tool. Applicants generally must send different applications and other required forms to each agency to which they apply. Respondents to our survey of upper level new hires indicated that the

burdensome application process discouraged many of them from applying for other Federal jobs. They did not want to re-write descriptions of knowledge, skills, and abilities; re-write or re-format their resumes; respond to lengthy questionnaires; and, in general, spend an inordinate amount of time applying for Federal jobs.

Surprisingly, automation has in some ways increased the burden on applicants. Many agencies have developed individual automated application systems that do not communicate with the systems used in other agencies. Therefore, an applicant who is searching for a "government job" may have to build a separate electronic resume and profile for each individual agency to which he or she applies.

To help address this concern, OPM has implemented the USAJOBS.gov recruitment website. USAJOB provides applicants with a single location where they can create a Federal resume, search Federal job listings, submit the resume to an employing agency electronically, or post their resume so that Federal employers can find them if their skills match the employer's needs. The USAJOBS website has many advantages. It is updated in real time and is available to anyone who can access the Internet. Moreover, the electronic Federal resume can sometimes be used to apply online for multiple Federal jobs.

Applicants have voiced some complaints about the site, though many of the problems actually fall under the purview of the agency advertising the job rather than OPM. For instance, agency application requirements can be too labor intensive (*e.g.*, long narrative explanations of experience or lengthy occupational questionnaires) or the application procedures may not be explained clearly. This may keep all but the most determined applicants from applying. As a result, the government may be losing applicants who do not understand the process or who are not willing to put in an inordinate amount of time into the process.

USAJOBS does have some drawbacks. Not all Federal job vacancies are listed on this site. Agencies are only required to post competitive service positions. Additionally, as noted above, applicants' resumes stored on USAJOBS cannot be used for all Federal

vacancies because some agencies use different online systems for application submission. Finally, the application tracking feature does not work well when an agency does not make a hiring decision expeditiously. The feature can actually frustrate applicants because their status does not change, reinforcing the impression that their application fell into a “black hole.”

We cannot estimate precisely how many applicants drop out of the Federal job search due to a lack of understanding of the process, burdensome requirements, or other barriers. However, when applicants lose interest in, or are deterred from, applying for jobs, Federal agencies can lose much of the return on investment for their recruitment efforts.

Recruitment and Marketing

In addition to the problems of length and complexity, the Federal government often fails to do a good job of marketing itself as an employer of choice. The typical Federal vacancy announcement is a good example of this problem. MSPB’s 2003 report on vacancy announcements brought attention to the fact that Federal vacancy announcements are often poorly-written, difficult to understand, and filled with jargon and unnecessary information. Moreover, announcements often make little or no effort to market the job and the agency to potential candidates. Consequently, many announcements can actually discourage potential applicants from applying for Federal jobs.⁵

OPM has attempted to help agencies improve vacancy announcements. First, OPM worked with agencies to develop a job announcement template that is more streamlined, user-friendly, and better organized. However, agencies still need to improve the actual content of the announcements to make them appealing to applicants. Second, OPM worked with agencies to develop standard job announcements for a set of occupations that cut across agencies.

⁵ MSPB, *Help Wanted: A Review of Federal Vacancy Announcements* (2003).

Ultimately, recruitment strategies affect who learns of job opportunities and therefore who applies. Our research has found that new hires rely heavily on word of mouth from friends and relatives and the Internet for information on Federal job openings. These recruitment strategies are largely dependent on the applicant's access to information about the Federal government. This means that agencies may very well be missing out on high-quality candidates who do not know where to look to learn about the employment opportunities with the Federal government.

A number of Federal agencies have demonstrated that it is possible for the Federal government to effectively compete for talent. Our 2004 report, *Managing Federal Recruitment: Issues, Insights, and Illustrations*, cited a number of interesting practices that improved agencies' ability to recruit qualified candidates. Successful agencies make recruitment an organizational priority, allocate the necessary resources for it, and employ proactive and creative approaches in their recruitment strategies. While they attempt to achieve efficiencies in their recruitment efforts, these agencies emphasize quality recruitment strategies that target the needed applicant pool.

Similarly, the MSPB has streamlined and improved its hiring practices. Under this initiative, we are revising our vacancy announcements, implementing category rating, and using a multiple hurdle assessment approach that eliminates lengthy knowledge, skills and abilities narratives. Instead, we now use more predictive assessment tools such as structured interviews and work sample assessments to inform our selection decisions. We are also in the process of conducting our own "Hiring Makeover" to identify redundant and unnecessary steps and improve our communication with applicants throughout the process.

Improving Assessment

Another issue of concern regarding the Federal government's ability to hire a high-quality workforce is how applicants are assessed. Assessment is the phase in the hiring process during which agencies make the determination as to whether an applicant is

qualified for the job and, if so, the extent to which she/he possesses the knowledge, skills, and abilities required to do the job. The purpose is to identify the best-qualified candidates.

MSPB's research has found that Federal agencies do not always use the most predictive assessment tools. Focusing on economy rather than effectiveness, agencies often use assessment tools that are easier and less expensive to develop and implement. Specifically, the government has gravitated toward the use of assessments that score applicants on the basis of training and experience (T&E). These assessments tend to measure an applicant's exposure to specific training or experience rather than evaluating how well that training or experience prepared the applicant for the specific job responsibilities. While such T&E assessments are relatively fast and cheap to develop, they are not good predictors of job performance and are, therefore, less likely to result in quality selections.

In addition, these assessments often add time to the process and draw excessively on agency resources. For example, agencies frequently ask applicants to provide multiple, lengthy written narratives describing general knowledge, skills, and abilities (KSAs), such as "ability to communicate in writing" or "knowledge of Federal budgeting." This requirement necessitates a great amount of applicants' time to write the narratives, as well as the investment of considerable agency resources to evaluate these lengthy applications. However, because of the generality of the information requested and the lack of structure in how applicants present their narratives, much of the information may be only marginally useful in identifying the best applicant.

The MSPB has encouraged agencies to explore better assessment methods. For instance, in MSPB's 2003 report on structured interviews, we pointed out that a structured interview has a much higher predictive ability and provides greater consistency in the content and conduct of a job interview than unstructured interviews.⁶

⁶ MSPB, *The Federal Selection Interview: Unrealized Potential* (2003).

Reference checks are also a fairly simple and cost effective strategy that can increase the fairness and objectivity of the hiring process.⁷ Ultimately, the probationary period is one of the most effective assessment tools available because supervisors can observe employees on the job before deciding whether or not to retain them. MSPB's report on agency use of the probationary period indicates that Federal managers rarely use the probationary period to separate employees not fit for the job.⁸ Finally, using several predictive assessment tools consecutively—also known as the multiple hurdle approach—can further improve the overall ability of the assessments to predict how well the applicant will perform on the job.

In addition to improving assessments, agencies need to change how they prioritize the use of their assessment resources. On average, fewer resources should be spent on the first hurdle of the selection process—the step that evaluates whether a candidate is among the best qualified. Instead, resources should be focused on the successive hurdles that determine who is the best selection. This makes sense not only from an organizational perspective, but also from the perspective of applicants. Agencies should make it relatively easy for a person to apply for a job, determine who is likely to be among the most qualified, and then use the best possible selection tool to determine who is actually the best applicant for a given job. Doing this will not only make better use of agency resources but will better serve the needs of potential applicants.

The fact that the government tends to rely on less predictive assessment tools does not mean agencies are not hiring good people. As previously mentioned, MSPB research reinforces the view that the government is hiring talented employees with the skills necessary to carry out the agency's mission. However, as competition for high-quality talent gets more heated, good assessment practices will become even more important in ensuring the Federal government continues to hire high-quality candidates.

⁷ MSPB, *Reference Checking in Federal Hiring: Making The Call* (2005).

⁸ MSPB, *The Probationary Period: A Critical Assessment Opportunity* (2005).

Lack of Human Resources and Managerial Expertise

For hiring programs to be effective, those who administer them need a high level of expertise and competence. In the 1990's, the Federal government significantly downsized the Federal workforce. After reducing the number of Federal HR professionals by 20 percent, agencies lost many of their senior specialists and their institutional knowledge of effective recruitment and hiring practices.⁹ In many cases, this expertise has not yet been fully restored. In some cases, agencies' human resources staffs have been faced with re-learning how to best attract and select a high-quality workforce.

In addition, the demands on supervisors are increasing. The National Academy of Public Administration pointed out in a 2003 study that supervisors have more decisions to make, less time to spend making them, and fewer resources to support them.¹⁰ As a result, supervisors often do not have time to participate in the hiring process. Furthermore, some supervisors have reported that they lack the necessary knowledge about hiring rules and procedures and are therefore reluctant to become involved in these activities. However, supervisors have also indicated that they are generally more satisfied with the results of the hiring process when they are involved than when they are not. The absence of supervisory participation can result in a poor fit between the new hire and the skills needed to accomplish the essential elements of the job. Therefore, the Federal government needs to do a better job of training and supporting supervisors in their managerial responsibilities so that they can actively contribute to the process.

⁹ U.S. Office of Personnel Management, *Federal Human Resources Employment Trends: An Occupation in Transition: A Comprehensive Study of the Federal Human Resources Community*, MSE-9-5, (September 1999).

¹⁰ National Academy of Public Administration, *First-Line Supervisors in the Federal Service: Their Selection, Development, and Management*, (February 2003).

Fragmentation

The Federal government has experienced a trend toward more flexibility in the hiring process. Unfortunately, this trend has not resulted from a systematic governmentwide evaluation of problems and potential solutions. Rather, the government—whether it be OPM or individual agencies—has identified specific problems and attempted to mitigate these challenges through such means as decentralization, delegation, deregulation, and the proliferation of HR flexibilities and appointing authorities.

To eliminate perceived barriers, reduce the time to hire, and lower costs, some agencies have attempted to opt out of the traditional hiring process when possible. This “opting out” appears to indicate fundamental problems with the system, yet no systematic reform has been implemented. Instead, agencies are increasingly turning to a collection of new appointing authorities and flexibilities that are replacing the standard, governmentwide hiring system.

The benefit of this approach is that agencies are able to tailor their recruitment and hiring strategies to better meet their mission requirements. However, the approach also has disadvantages. Government loses the ability to achieve economies of scale in terms of hiring tools and systematic approaches. Competition increases among agencies and provides advantages to those with more resources and leadership support. Fragmentation also creates confusion among applicants who do not understand why some agencies employ traditional application and hiring methods and others do not.

Recommendations

If government is to reform the hiring system, it needs to take on reform that focuses on what is important. This means systematically reengineering the process to ensure that the best candidates are hired in a timely and cost-effective manner. Reform should: (1) provide agencies the flexibilities they need to effectively manage their hiring systems, (2) ensure employees and applicants receive the protections promised by the merit system principles, and (3) give the public a high-quality government workforce

working toward its interests. To begin this process, the MSPB has offered the following recommendations to guide reform and improve the Federal hiring process. We believe these recommendations would be relevant to the improvements DoD is also seeking in its hiring process.

First, agencies should manage hiring as a critical business process, not an administrative function. Recruitment and selection is about making a continuous, long-term investment in attracting a high-quality workforce capable of accomplishing the organization's mission. It should not continue to be viewed therefore solely as an HR function. This means integrating discussions of hiring needs, methods, and outcomes into the business planning process.

Second, agencies should evaluate their own internal hiring processes, procedures, and policies to identify barriers to quality, timely, and cost-effective hiring decisions. Often, agencies put processes in place that extend the time it takes to make decisions without even realizing they have done so. Many agencies will probably be surprised to see that many of the barriers they face are self-imposed.

Third, we recommend that agencies, with the assistance of OPM, employ rigorous assessment strategies that emphasize selection quality, not just cost and speed. In particular, agencies should develop and use assessment instruments that have a relatively good ability to predict future performance. Using several assessment tools in succession can make the assessment process even more effective in managing the candidate pool and narrowing the field of qualified candidates. In addition, OPM can work with agencies to develop assessment tools that can be used for occupations that cut across agencies. This would increase the government's return on investment for these assessments.

Fourth, we also recommend that agencies improve efforts to manage the applicant pool while making the process manageable for applicants. This means better recruitment strategies, improved vacancy announcements, more communication with applicants, and

a timely, understandable application and assessment process that encourages applicants to await a final decision rather than abandon the Federal job search in favor of employment elsewhere.

Fifth, we believe it is crucial that agencies properly prepare HR staff and selecting officials to carry out the full range of services necessary to implement an efficient recruitment and hiring system. When DoD began implementing NSPS, the department devoted significant resources to training HR staff, managers, and employees on the new pay-for-performance processes. If agencies devoted similar resources to ensuring HR staff and managers are prepared to carry out their hiring duties, this would likely significantly reduce bottlenecks in the process. In particular, hiring officials need more information about their role in hiring, the importance of using good assessment tools, the assessment tools available to them, and how to use the probationary period to alleviate selection mistakes.

Finally, OPM should work with agencies to develop a governmentwide framework for Federal hiring reform. This framework should provide agencies with the flexibilities necessary to address agency needs while also preserving selection quality and employee and applicant protections. The framework could streamline and consolidate appointing authorities to simplify hiring procedures and make the process more transparent and understandable for HR staff, selecting officials, and applicants. OPM has started discussions with the Chief Human Capital Officers Council on Governmentwide reform and is looking at potential changes.

Agencies can take most of these steps without any changes to existing rules and regulations. Implementing these recommendations should help ensure that agencies are hiring qualified employees in a timely manner from all segments of society after fair and open competition while treating applicants fairly and equitably, as prescribed by the merit system principles.

Conclusion

The current economic environment actually offers the government a valuable opportunity. Because the government can offer the job security and stable benefits that many applicants are currently seeking, there is an opportunity to effectively compete with employers that agencies may not have been able to compete with just a few years ago. Furthermore, Federal retention data indicates that if agencies can keep an employee on board for 2-3 years, they will likely stay with the government for their career. But the government needs to ensure it can attract the best and get them in the door quickly. The current hiring process limits the government's ability to accomplish these goals.

The hiring process currently takes too long, is too complex for many applicants to understand, does not market Federal jobs well, and does not make the best use of available resources. The recommendations that MSPB has put forth, as well as many of the initiatives that OPM and agencies such as DoD have begun implementing, should help alleviate some of these problems.



Testimony for the Record
Before the United States House of Representatives
Committee on Armed Services
Subcommittee on Readiness
April 1, 2009

National Security Personnel System – The Way Forward

The National Security Personnel System and the Need for a Cautious Approach in Crafting the Future of the Civil Service

**Statement of
Darryl Perkinson
National President
Federal Managers Association**



Chairman Ortiz, Ranking Member Forbes and Members of the House Armed Services Subcommittee on Readiness:

My name is Darryl Perkinson and I am here today representing the over 200,000 managers, supervisors and executives in the federal government in my role as National President of the Federal Managers Association (FMA). Please allow me to take a moment and thank you for this opportunity to present our views before your 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.

Currently I serve as the Nuclear Training Manager for the Production Training Department at the Norfolk Naval Shipyard (NNSY) located in Portsmouth, Virginia. I have completed 29 years of federal service in the Department of Navy, the last 23 of which were in management. I began my tenure as an Electrical Apprentice and moved up to my present managerial position in the training department. During my career, I have spent time in three separate pay systems – first as a Wage Grade employee, then a General Schedule (GS) employee and now a National Security Personnel System (NSPS) employee. Over the past eighteen months, I have been involved with NSPS as a rating official and an employee being rated. During my career with FMA, I have held many positions, including Chapter officer, Zone President, National Vice President and I am presently serving my second term as National President. 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 Department of Navy.

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 some 35 different federal departments and agencies, including managers and supervisors at DOD under the National Security Personnel System. 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 ultimate success or failure of NSPS, 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 seems unreflective of the expectations of new job seekers by today's standards. The current General Schedule pay system and performance review methods are antiquated. We at FMA support any changes that guarantee increased flexibilities, accountability and performance results. However, we are increasingly realizing that NSPS is not delivering on its promises.

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. Currently, about 205,000 DOD employees are serving under NSPS, most of whom are managers and supervisors. This hearing marks the seventh time FMA has appeared before Congress to discuss the ongoing implementation of NSPS since the regulations were first proposed.



BACKGROUND

Over the past few years, the Department of Defense has embarked on an historic implementation of a new personnel system positioned to change the face of the federal workforce. Much has happened to bring us to this point. With the passage of the National Defense Authorization Act of 2004 (P.L. 108-136), DOD was granted the authority to embark upon civil service reform within the agency. 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 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 America. While this justification has come under fire, we agree that the needs of national security 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 is far more uninhibited than is currently established in the General Schedule. 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 that does not allow for meaningful distinction of productivity is a step in the right direction.

The final regulations governing NSPS were released in October 2005 and went into effect 30 days after. 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 three years, implementation plans have slowed considerably, epitomized 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 development and implementation of the new personnel system 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. Three years into the process, we have yet to see widespread success of the system.

MY PERSONAL EXPERIENCE WITH NSPS

As a current employee at the Norfolk Naval Shipyard, I have been rated and have rated others under NSPS for one complete pay cycle. At my location, we experienced a mock pay run and completed a performance period in January 2009. I appreciate the opportunity to provide you with a synopsis of my experience as a person rated and as a rating official.

In the role of being rated, I experienced the gamut of what can happen to an individual employee. I had what I would call a "hands off" rating official. While we followed the step-by-



step process laid out in the online rating system, I never had any of the active discussions suggested in the training. One reason for this was that the rating official to whom I was assigned was preparing for retirement and subsequently retired prior to the end of the timeframe for the conversations that were required. While I took the time to write a detailed self-assessment, I truly feel that it was never reviewed by my rating official. In his assessment, I received few comments on the issues which I reflected upon in my assessment except for confirmation that he agreed with them; however, no added positives or negatives were written. Prior to my rating official's departure, I had no conversation nor was one even initiated concerning my progress or rating. The duty of revealing my rating was handed off to my rating official's replacement and in our conversation about my rating, he began by informing me of my rights to ask for reconsideration. This indicated to me that it was likely I was going to disagree with my rating, and I did. I pursued reconsideration successfully and after my appeal to the Pay Pool Manager, I received an increase in my share distribution and award amounts. The reconsideration process worked well and seemed to be fair.

Ideally, my experience would be one that never occurs for an employee. Even in the event of a departing rating official, there should be a face-to-face explanation of your performance by said rating official. It is important for the conversations to occur and be understood by both parties for the process to be fair.

As a rating official, I felt the conversations with my employees went smoothly and were useful to them as well as to me. In reality, all managers should be interacting with their employees such that these conversations become the norm in an effort to understand what their employees do and if they need help. Overall, the experience with my employees was rewarding except for the rules that do not allow the rating official to divulge his/her rating until it has passed through the pay pool panel process. The awkwardness of this portion of NSPS instills a level of distrust despite the relationship you may have with your employees.

NSPS PROGRAM DEFICIENCIES AND RECOMMENDATIONS

We at the Federal Managers Association have been closely monitoring the implementation of NSPS and have received significant feedback from our members as they transition. If one thing is certain, it is that no single view of the system exists. However, several themes have emerged throughout this process.

Overall, FMA managers and supervisors believe a switch to pay-for-performance is necessary not only to compete with the private sector for talent, but also to encourage and reward high performance. The time for rewarding employees simply for longevity has passed. Many of the hard-working federal managers entering NSPS want to be rewarded for the job they do. However, the system is not without its flaws.

The implementation of NSPS has caused a fundamental shift in the culture at DOD; a shift for which many of our members were not adequately prepared. This has marked the biggest change to a federal agency personnel system in over a generation. We have heard strong calls from our members to return to the General Schedule pay system. As discussions continue on Capitol Hill and in the Administration regarding the future of the system, we at FMA believe



certain changes need to be made while NSPS serves as DOD's pay system, and we appreciate the opportunity to discuss them with you today. It has been our experience that DOD leadership is out of touch with what is being carried out on the ground. Below is a list of problems and recommendations we believe DOD should address to ensure a fair and transparent system.

Going into the new system, the biggest cause for concern among our members was how the funds in the pay pools would be distributed. In 2007, Congress determined that all DOD employees rated above "unsuccessful" must receive no less than sixty percent of the General Schedule raise appropriated by Congress, with the remaining forty percent going into the pay pools, and one hundred percent of the locality pay adjustment.

It is absolutely critical that any employee rated a 3 (valued performer) or above should, *at a minimum*, receive the congressionally approved pay raise. Issues of fairness and low morale would certainly surface if a valued performer were to receive less than the GS raise. Employees who are considered valued performers but receive less than they would have under the General Schedule have no confidence in the system.

During the last three ratings cycles, we have seen the average pay raise under NSPS greatly exceed the GS raise over those three years. We are encouraged that the system is accurately rewarding high performers. However, there is no guarantee the pay pools will have the funds to distribute more than the 60 percent requirement. Should budgets be cut by Congress or the Administration, this trend could easily be reversed. If the pool of money is lacking, the performance of some deserving federal employees may go unrecognized, causing the system to fail in meeting its objectives, in addition to creating dissention among employees.

With a sixty percent pay increase guaranteed, it is feared any other pay employees receive (assuming performance standards are met or exceeded) will come in the form of a bonus which does not count towards basic pay for retirement purposes. This not only affects employees' salaries from this point forward, but also their high three and Thrift Savings Plan contributions. In such a situation, higher performing employees are better off under the old GS system.

The so-called bell curve distribution of raises is also of grave concern. If the system worked as intended, a bell curve should happen naturally without being forced. Managers and supervisors have reported extreme pressure from higher-ups to maintain a specified distribution of funds or performance ratings within each pay pool, despite claims from DOD leaders that this should not be occurring. There is severe danger of ratings being deflated or inflated to accommodate a small section of the population. Employees must receive the ratings their performance dictates and they should not be 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.

Vast differences in how the pay pools are awarded are also bothersome. Due to the nature of the pay pools, an employee rated a 4 in one pay pool could receive a very different raise than a 4 in a different pool at the same facility. This creates animosity towards fellow employees and



agency leadership. It is our belief that raises correlating to ratings should be the same throughout the Departments (Navy, Air Force, Army and Marine Corps), if not DOD-wide.

Aside from issues involving pay, we are also finding there is a lack of concrete business rules that allow for a transparent and fair deployment of pay-for-performance. As concerns about pay have been placed on the back burner, the focus of our members now centers on transparency and fairness. The process, as explained to our membership, creates a difficult environment for the rating officials on several levels. Additionally, we have received many valid concerns from those writing self assessments.

We have heard several reports of the Pay Pool Panels and Sub-Pay Pool Panels being out of touch with the objectives and job functions of the employees whom they are rating. I personally experienced this as well. If the Panel is the ultimate authority on the final evaluation attributed to each employee and is able to adjust a supervisor's prescribed rating, employees should have access to their evaluation before the Panel engages in the review cycle. The rating official's ranking should be revealed to the employee and any adjustments made post-rating should be explained and justified by the Panel making the adjustment.

As they are aware of the amount of money in the pool, the Panels have a direct stake in the final ratings of the employees. For example, let's say nearly everyone in the pool received a 4, with a few 2s and 3s. The Panel is acutely aware that those in the pool will receive a lower share value since there are so many 4s. As such, we have heard reports of great pressure from 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 does not occur. The Panels are too focused on the impact they have on the share value. The sole purpose of the Pay Pool Panel should be to ensure fairness, transparency and consistency exist in the system.

Additionally, business rules require a supervisor to provide a feedback session before completing the NSPS appraisal, but we are hearing this usually does not take place. This is a key part of the NSPS process that is often not given the importance it deserves. Job objectives should be discussed with employees to ensure they line up with mission objectives, supervisors' objectives and where good work can be identified and how improvements can be made. We find it alarming these conversations are not taking place.

Many employees continue to feel uncomfortable in the assessment of their own work as required under NSPS. Inadequate training in this area has contributed to employees' lack of confidence in the delivery of their own rating, as they are not sure how to properly convey the value of the work they perform each day. For many employees, this is their first experience providing such information, and a self-evaluation that fails to reveal their full worth to the agency may have a significant negative effect on their paychecks. It has been our experience that the Pay Pool Panels heavily rely on one's written assessment, despite the fact that these assessments are not required. Additionally, most employees are reporting that they were never told the self assessment portion of the review was optional. More attention must be paid to properly train employees how to write self assessments in order to ensure employees get the rating their efforts merit.



If NSPS is to garner greater support from the employees engaged in its execution each day, more attention must be paid to the processes and enhanced coordination on which comprehensive implementation depends. A thorough examination of the ratings cycle and the prevalence of multiple pay systems within DOD and individual departments is necessary to allow employees to work with the system instead of against it.

An overwhelming number of employees have indicated that the cumbersome nature of the rating cycles is causing acute frustration among employees. It is not uncommon for the rating cycles to take upwards of six months and fifty percent of a manager's time. While workloads continue to increase as baby boomers flee the government for retirement, it is critical that we streamline the process. This will benefit both managers and the employees under their supervision whose salaries hinge on their evaluation.

Managers and supervisors have become increasingly aware of the negative impact NSPS has on agency recruitment. Many critical positions need to be filled in DOD, yet highly qualified personnel are not applying because the positions fall in their current pay bands. Employees are not considering jobs in the corresponding NSPS pay bands because accepting such positions would be considered a reassignment, not a promotion, translating into a five percent maximum salary increase. Qualified employees may be unwilling to take on the added responsibility associated with mission critical positions if they are not adequately compensated. Additionally, we have heard reports that contradict the original intent of NSPS to ease the hiring process from the outside. Many of our members have been told by their facility's leadership they must hire from within the Department.

DOD currently employs workers enrolled in the NSPS, GS, and Wage Grade pay systems. It is simply unacceptable that a single agency utilizes multiple pay systems that are often at odds with each other within individual departments. This problem is exacerbated when raises among equally performing employees differ. It is the view and recommendation of FMA that DOD establish cohesion within departments in order to foster a greater sense of equality among the workforce. Employees should not be at a disadvantage simply because they are enrolled in a different pay system than their counterparts whom they work alongside.

THE GENERAL SCHEDULE PAY SYSTEM

In talking with FMA members over the last several years, I can tell you that some of them would be thrilled to simply return to the old GS system. However, I believe we all realize that this is not as easy as one might think. In addition to the significant cost involved, Congress should consider the following issues if we are to return to the GS system.

First and foremost, we must ensure employees' pay is protected. Employees who excelled under NSPS and were appropriately rewarded by increases in salary beyond the GS scale for their prior grades should not be penalized by losing pay or by not being eligible for future pay increases because of the current GS rules on pay retention. Given that the average pay raise under NSPS has far exceeded the GS raises, many employees are now a GS level, or in some instances two, above where they were when they entered NSPS, sometimes without added responsibility. We must ask ourselves what the options are for these employees. One suggestion



is to move them into the GS level where their current pay would place them. However, this might put them above the level of responsibility for which they are prepared. We also believe that such a scenario would make DOD top heavy with GS-14s and 15s.

A second suggestion, one that has been floated among groups not represented here today, would be to place the NSPS employees at the same GS level they were at when they converted and freeze pay until the GS schedule “catches up” with them. In such a situation, these employees would be above average performance-wise and should not have their pay negatively impacted because they were forced to endure a system they did not ask to be a part of.

A third suggestion is that these employees be put into a special rate category in which they would retain their current salary upon conversion and subsequently be eligible to receive the full congressionally approved pay raise and any future performance recognition rewards to which they would be entitled. However, this scenario would continue the three system pay structure DOD currently has in place; one that is proving difficult to manage in such a large, complex agency.

The current regulations would not allow these employees to be made whole, which would have a serious negative impact on morale. Most of the employees under NSPS are the key people in the organizations - managers and senior staff - and NSPS has proved a great incentive for high-performing individuals, at least in the area of pay.

We must also ensure that managers and supervisors are accurately rewarded for their managerial duties. With increased responsibility should come increased pay. We are moving into a time when bargaining unit employees are much less likely to become managers, mostly because the slight pay increase is not worth the large increase in duties.

Several provisions are currently in place under the GS system that allow managers and supervisors to award employees' performance. I would like to discuss some of them, but I must point out that usage of these tools has been sparse throughout federal government and across agencies.

The large disparity in the average pay raises between GS employees and NSPS employees does not take into account Within Grade Increases (WGI), which can be up to three percent of an employee's salary, Sustained Superior Performance (SSP) Awards, which can be up to five percent, and Quality Step Increases (QSI). Managers can also distribute small cash bonuses, usually between \$25 and \$250, for marked accomplishments. Some agencies also employ a Special Act or Service Award. This is a cash award given to recognize a meritorious personal effort, act, service, scientific or other achievement accomplished within or outside assigned job responsibilities and can be up to \$25,000. These are all monetary tools managers and supervisors have within the GS system to award performance.

There are also non-monetary awards available. Employees can be granted a Time Off Award which can be up to 80 hours of time off during a leave year without a charge to leave or loss of pay as an award for achievements or performance contributing to an agency's mission. Other non-monetary awards include medals, certificates, plaques, trophies, and other tangible



incentives that have an award or honor connotation. These can be especially helpful if the employee receiving the award believes agency leadership is aware of his/her contributions.

As you can see, under the current system, there are rewards available to high performing employees that distinguish their performance. However, the resources available to managers and supervisors to reward those employees are limited, which renders them ineffective. The budget process for awards is normally based on a percentage of the aggregate base payroll (usually around 1.5 percent); therefore the total dollars available are insufficient. Additionally, while I wish it was not the case, the process for awarding employees is extremely cumbersome and therefore many managers do not spend the time to accurately identify performance and reward it appropriately. I believe many managers are also unaware that these incentives even exist.

It has been our experience that federal agencies have broad statutory authority to design and implement a variety of incentive programs to meet their specific needs, which causes wide variations among agencies. I have heard from managers in different agencies who use different methods of performance awards. In order for these awards to be used effectively, managers must have support from top agency leadership.

WHERE DO WE GO FROM HERE?

We have heard many calls from our members to return to the GS system. We have also heard from several managers and supervisors within NSPS who have enjoyed finally being rewarded for the job they do and enjoy the flexibility NSPS offers them. The GS system, while steadfast and reliable, is not a sustainable tool for recruitment.

Any pay system, whether it be NSPS, GS or something entirely different, must adhere to certain basic principles. Additionally, a shift in the culture of any organization cannot come without an interactive training process that brings together the managers responsible for implementing the personnel system and the employees they supervise. If implemented properly, NSPS had great potential to retain and recruit a highly talented workforce. As Congress and the Administration debate where to go with the 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.

We are encouraged that the Department heeded calls from this Committee to halt any more implementation of NSPS until an independent review of the system takes place. While the details of who will be part of this process are unknown, we would strongly suggest employee groups, both managerial and unions, be invited to participate. The unique experience of these employees allows them to convey what is working, what is not, and what is actually going on at the ground level, which is often not what the regulations dictate.

Change for change's sake is only going to compound the ongoing personnel challenges at DOD. 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. Thank you for the opportunity to appear before you today and I am happy to answer any questions you may have.

**DISCLOSURE FORM FOR WITNESSES
CONCERNING FEDERAL CONTRACT AND GRANT INFORMATION**

INSTRUCTION TO WITNESSES: Rule 11, clause 2(g)(4), of the Rules of the U.S. House of Representatives for the 110th Congress requires nongovernmental witnesses appearing before House committees to include in their written statements a curriculum vitae and a disclosure of the amount and source of any federal contracts or grants (including subcontracts and subgrants) received during the current and two previous fiscal years either by the witness or by an entity represented by the witness. This form is intended to assist witnesses appearing before the House Armed Services Committee in complying with the House rule.

Witness name: Darryl Perkinson

Capacity in which appearing: (check one)

Individual

Representative

If appearing in a representative capacity, name of the company, association or other entity being represented: The Federal Managers Association

FISCAL YEAR 2007

federal grant(s) / contracts	federal agency	dollar value	subject(s) of contract or grant
n/a			

FISCAL YEAR 2006

federal grant(s) / contracts	federal agency	dollar value	subject(s) of contract or grant
n/a			

FISCAL YEAR 2005

Federal grant(s)/ contracts	federal agency	dollar value	subject(s) of contract or grant
n/a			

Federal Contract Information: If you or the entity you represent before the Committee on Armed Services has contracts (including subcontracts) with the federal government, please provide the following information:

Number of contracts (including subcontracts) with the federal government:

Current fiscal year (2007): _____ n/a _____ ;
 Fiscal year 2006: _____ n/a _____ ;
 Fiscal year 2005: _____ n/a _____ .

Federal agencies with which federal contracts are held:

Current fiscal year (2007): ___ n/a _____ ;
 Fiscal year 2006: _____ n/a _____ ;
 Fiscal year 2005: _____ n/a _____ .

List of subjects of federal contract(s) (for example, ship construction, aircraft parts manufacturing, software design, force structure consultant, architecture & engineering services, etc.):

Current fiscal year (2007): _____ n/a _____ ;
 Fiscal year 2006: _____ n/a _____ ;
 Fiscal year 2005: _____ n/a _____ .

Aggregate dollar value of federal contracts held:

Current fiscal year (2007): _____ n/a _____ ;
 Fiscal year 2006: _____ n/a _____ ;
 Fiscal year 2005: _____ n/a _____ .

Federal Grant Information: If you or the entity you represent before the Committee on Armed Services has grants (including subgrants) with the federal government, please provide the following information:

Number of grants (including subgrants) with the federal government:

Current fiscal year (2007): _____;
Fiscal year 2006: _____;
Fiscal year 2005: _____.

Federal agencies with which federal grants are held:

Current fiscal year (2007): _____;
Fiscal year 2006: _____;
Fiscal year 2005: _____.

List of subjects of federal grants(s) (for example, materials research, sociological study, software design, etc.):

Current fiscal year (2007): _____;
Fiscal year 2006: _____;
Fiscal year 2005: _____.

Aggregate dollar value of federal grants held:

Current fiscal year (2007): _____;
Fiscal year 2006: _____;
Fiscal year 2005: _____.



STATEMENT OF
RICHARD N. BROWN
NATIONAL PRESIDENT
OF
THE NATIONAL FEDERATION OF FEDERAL EMPLOYEES
FOR THE RECORD
BEFORE
THE HOUSE ARMED SERVICES COMMITTEE
SUBCOMMITTEE ON READINESS
REGARDING
THE NATIONAL SECURITY PERSONNEL SYSTEM
SUBMITTED ON
APRIL 14, 2009

On behalf of the National Federation of Federal Employees (NFFE) and the 100,000 federal employees our union represents throughout the United States and abroad, including 45,000 civilian employees at the Department of Defense (DoD), I thank you for the opportunity to submit this statement on the National Security Personnel System (NSPS).

Summary of NFFE's Position on NSPS

NSPS is a failed plan that has been fundamentally flawed since its inception. NSPS was never intended to be a modern, good government personnel system. It was intended to eliminate federal employee unions and suppress pay for the majority of DoD workers. Even after much of DoD's authority to create a new personnel system was revoked in the FY08 Defense Authorization Bill, DoD has continued to spend billions of dollars implementing this ill-conceived plan. Pay and promotion systems under NSPS are unfair, and it has severely diminished morale within the department. It is apparent that DoD is throwing good money after bad trying to implement a system that should never have been put forward in the first place. NFFE strongly supports full repeal of NSPS for all DoD workers in the Fiscal Year 2010 Defense Authorization Bill.

Background on NSPS

In 2003, under the guise of national security, Congress granted the DoD the authority to establish a new human resources system and to modify certain labor relations provisions under NSPS.

When then-Defense Secretary Donald Rumsfeld appeared before Congress, he stressed the need for flexibilities in order to defend our nation against the new threats of terrorism. Yet, when draft regulations were finally issued on February 14, 2005, the agency put forward a plan that scarcely resembled the one brought to Congress. From the very beginning, Congress was misled about what reforms DoD had in mind for Defense workers.

The law required DoD officials to engage in meaningful discussions with the unions concerning the development of NSPS. Moreover, Congress mandated that NSPS be created jointly with employee representatives through a “meet and confer” process before any changes to existing personnel and labor relations policies could be implemented.

The unions representing the federal civilian workforce made a good-faith effort to address the needs of DoD and revise the personnel system that was in place. However, rather than trying to collaborate with the unions, the agency chose to ignore virtually all of the proposals offered by employee representatives.

DoD insisted that the authority granted to them by Congress allowed them to use national security as a pretense to do whatever the agency wanted. The agency defied the intent of Congress by failing to consider the views of Defense workers. By failing to meaningfully engage employees, DoD built considerable distrust among Department employees and their representatives. That distrust throughout the agency remains very strong today.

When DoD published the final regulations on NSPS in November 1, 2005, despite nearly 58,000 comments from the public and federal workers and a 30-day meet and confer period with the unions, DoD made practically no changes from the originally proposed regulations. The legitimate ideas and concerns of the workers and their unions were completely disregarded. This greatly undermined the credibility of the new personnel system, and it eliminated any reasonable expectation that Defense workers would accept NSPS as a good government reform.

Having no meaningful way to help shape the new personnel system through collaborative effort with DoD, Defense workers and their unions turned to the courts and to Congress. After a drawn-out legal battle that lasted over two years, Congress stepped in and eliminated many of the authorities DoD had been granted in 2003.

The Fiscal Year 2008 Defense Authorization Bill, signed in January of 2008, included language to restore collective bargaining rights and employee appeal rights for Defense

workers under NSPS. It also exempted blue collar workers from NSPS entirely. The language did leave in place DoD's authority to create a pay for performance system. Despite having the authority to implement NSPS on bargaining unit Defense workers, the agency has not moved forward with implementation.

At present date, DoD has moved more than 205,000 non-bargaining unit employees under NSPS. The agency has halted all future conversions to NSPS until the DoD and the Office of Personnel Management (OPM) can conduct a joint review of the program.

We applaud Committee Chairman Ike Skelton and Subcommittee Chairman Solomon P. Ortiz for requesting that DoD halt conversions to NSPS until a review can be completed. We applaud DoD for taking the time to review the personnel system.

NFFE's Analysis of NSPS

Despite NSPS not having been implemented on bargaining unit Defense workers, we still have more than enough information to conclude that NSPS is a disaster that grows larger every day.

At the present date, we can demonstrate the following:

- NSPS will not truly reward high performance with pay incentives as advertised
- NSPS is not a fair, credible, and transparent personnel system
- NSPS will depress pay for rank-and-file Defense workers
- NSPS is not well-liked among those already under the personnel system
- Multiple personnel systems within the same agency is wasteful and inefficient
- Getting NSPS right, if that is possible, will cost billions of dollars to accomplish
- NSPS becomes harder to unravel with every passing day

Given what we already know about NSPS, the best possible course of action at this point is full repeal.

NSPS is Not “Pay For Performance”

NSPS has consistently been advertised as a way to link Defense workers’ pay with their performance. Unfortunately, NSPS is not designed to reward individual employees for good performance. In fact, there are numerous obstacles in place to keep this from happening.

A pay for performance system should compensate employees based on how they are rated, primarily from their immediate supervisor. However, under NSPS the ratings of supervisors can, and often are, overturned. The final decision on ratings and payouts is made by the “pay pool panel,” which includes managers that may know very little about an employee’s performance. An employee’s pay becomes more a function of how much influence his manager has with the pay pool, and not his actual performance. This decision making is even further removed in bigger pay pools that have “sub-pay pools” and even “sub-sub-pay pools.”

The pay pool panel makes decisions on payouts that are often entirely out of an employee’s control, like whether their position is deemed critical by the local installation, where an employee’s office is located, or how well a manager links an employee’s objectives with agency goals. The consideration of these factors tells employees that their performance, at least in terms of how they will be rated, is not entirely within their control.

Pay pools consider recruitment and retention at a facility in determining payouts. While these factors may be relevant to agency staffing, they have nothing to do with the performance of agency employees. It seems inappropriate for high performing employees at installations not experiencing recruitment problems to have a lower ceiling for merit-based payouts simply because of local labor market conditions. This is a departure from the principle of pay for *performance*. The local labor market is entirely out of an employee’s control and has nothing to do with his/her performance. This practice has the potential to have a disparate impact on rural communities, where unemployment tends to be the highest. We are very concerned that these factors could be used to justify smaller payouts for Defense workers in these rural communities.

There is serious concern that the pay-for-performance system under NSPS will be undermined by a forced distribution of employee ratings. NSPS guidance has already been disseminated to rating officials that indicated a majority of employees should be rated at the “three” level. Agency managers have also indicated that they feel pressure to maintain a specified distribution of funds despite agency claims that a forced ratings curve is not in effect. A forced distribution of ratings and payouts greatly undermines the NSPS pay system.

The agency is also using “control points” to keep employees from moving up through their pay band. A control point is an artificial point on a pay band where management determines an employee at a certain position cannot exceed. Workers will have the illusion of the potential for higher pay, but the control point will keep them from attaining it. This is the epitome of “chasing a carrot.” This idea insults the intelligence Defense workers and will prove to be a tremendous drain on employee morale.

NSPS is Not Fair, Credible or Transparent

It is widely accepted that for NSPS to be successful, it must be fair, credible and transparent to Department employees. But NSPS currently fails to meet any of these standards.

NSPS allows for “reassignments,” which allow managers to give employees new positions, more money, and advancement opportunity without using a competitive process or even giving notice to other employees about the opportunities. Reassignments would open the door for discrimination and favoritism throughout the agency. This feature is extremely unfair to Department employees who deserve the right to compete for positions when they are qualified to perform them.

There is concern that NSPS has been discriminatory to some segments of the Defense workforce. Data that was released in August of 2008 suggested NSPS discriminated against people of color. While this data was just a snapshot and did not indicate a trend, the data itself is very concerning. Defense workers’ unions have been concerned that NSPS would not be administered fairly, and this evidence, to some degree, confirmed our suspicion. One

encounters a Pandora's Box of problems when highly subjective elements are added to the pay system. The agency tried to make light of the numbers, but it is very important to keep a close eye on this huge potential problem. Discriminatory practices that are left unchecked will damage the credibility of the entire system.

While pay is supposed to be based on one's performance, this is greatly undermined by the fact that supervisors are not allowed to disclose their recommendations for a given employee to the pay pool. Instead, managers are forced to conceal their recommendations for several months until the pay pool has made its final payout decisions, often overriding the managers' recommendations. Managers are then instructed to go back and edit the recommendations they made, so that they reflect the pay pool's decision. Only at that point is the information disclosed to employees. It would be difficult to design a pay system less transparent than that. Department employees justifiably have little faith in this system, and morale is suffering as a result.

NSPS Will Not Fairly Compensate Rank and File Defense Workers

In January of 2009, DoD released figures on performance-based payouts for employees working under NSPS. The total average salary increase for NSPS employees was 6.41 percent, plus a one-time bonus of 1.94 percent. Together, the average increase was 8.35 percent. That dwarfed the 3.9 percent average increase that employees under the GS system received. Even workers in the Washington area, who received the highest locality pay adjustment of all this year, only received a 4.78 percent increase, far less than the nation-wide average for NSPS employees.

What is most concerning about these figures is that the majority of Defense workers who received the high increases this year are managers, because they are the ones who have already moved under NSPS. The vast majority of rank-and-file employees remain unconverted. These payout numbers essentially say that, when given the chance, managers are going to give themselves the lion's share of incentive payout money.

If DoD had a surplus of incentive pay to reward high performers, they should have used the existing merit pay authorities under the GS system, like bonuses and other incentives, to reward high performing rank-and-file employees as well. But the agency didn't choose to do that. Instead, managers gave themselves huge increases by federal government standards, and they rewarded the rank-and-file workers with nothing extra.

What is disturbing to think about is what would have happened with respect to pay increases this year if bargaining unit Defense workers were already under NSPS. If the majority of DoD employees were not in the GS system, where their annual pay adjustments were protected from pay pool decisions, there is a good chance that hefty pay increases for agency managers would have been funded with dollars that rank-and-file workers brought into the pay pool. After all, with no new source of money for Department employees, if managers are going to get paid more, the money has to come from somewhere. The only possible source is from the discretionary portion of rank-and-file Defense workers' pay. If managers chose not to give rank-and-file Defense workers any extra performance pay when there was plenty of money to go around, there is no reason to think they would be any more generous with those same employees when there is not as much incentive money to distribute. NSPS will be used to reward managers more generously at the expense of rank-and-file Defense workers.

Managers in DoD have given themselves raises so big in their limited time under NSPS, that many managers are now being paid at a level that corresponds to a grade or even two grades above their job description. Workers who would be GS 13s in the GS pay system are frequently earning the pay at the rate of GS 14s, and some are earning as much as GS 15s.

The disparity in how Defense workers have been paid under NSPS is outrageous. If the managers are getting these huge annual increases, there is not going to be much left for everyone else. We believe the rank-and-file Defense workers will see their pay stagnated considerably under NSPS, and we cannot let that happen.

NSPS is Not Well-Liked by Those Currently Under the System

A report on NSPS was issued by OPM in December of 2008. This report was publicly touted by the previous administration as demonstrating the success of NSPS. However, the increases in support for NSPS that were cited in the report failed to account for the fact that support was falling among employees who had been in the program the longest, those in Spiral 1.1.

For example, the survey indicated that the percentage of employees under NSPS who believe their appraisals are a fair reflection of their performance had fallen just one percent in the last year, but that included a large percentage of DoD workers who were new to NSPS. When spiral 1.1 workers were looked at in isolation, the percentage who thought their appraisal was a fair reflection of performance had fallen by 12 percent.

Similarly, the percentage of Spiral 1.1 survey respondents who indicated that their current performance management system motivates them to perform well fell 5 percent from the previous year.

The bottom line is that despite the best efforts of the agency to portray an optimistic future for NSPS, the Department's own surveys demonstrate that those who spend more time under NSPS tend to lose confidence in the system and are less motivated by it. Translation: NSPS is not working.

Three Personnel Systems at DoD is Wasteful and Problematic

DoD currently has three pay systems under which Department employees are enrolled – NSPS, GS and Wage Grade pay systems. Having multiple pay systems like this is wasteful of Department resources because managers are forced to operate within multiple systems at once. This causes a duplication of efforts that costs tax-payers untold sums in lost efficiency.

Having multiple systems is also unfair to Defense workers because two employees who perform the same job can be treated very differently under the two systems. NSPS and the

GS system are often at odds with each other. Having employees under the two systems simultaneously creates logistical problems that are difficult to resolve. The problem is particularly bad for morale when there are sizable disparities in pay for workers under the different pay systems.

NSPS Will Cost Billions of Dollars to Fully Implement

The true cost of NSPS has never been disclosed publicly. After discussing openly the exorbitant cost associated with adopting a new personnel system at the Department of Homeland Security (DHS), roughly \$10,000 per FTE by some estimates, the previous administration learned that the true cost of NSPS was best left undisclosed.

In November of 2005, at the request of Congress for a cost estimate, DoD threw out a ridiculously low estimate of the NSPS tab - \$158 million. A Government Accountability Office (GAO) report released in July of 2007 found that DoD's estimate was completely unsubstantiated, as the unions had contended. Not included in DoD's estimate were many of the direct costs associated with implementing the personnel system, such as the full salary costs of all the civilian and military that directly support NSPS activities department wide. The estimate also excluded indirect costs of implementing NSPS, such as general administrative services, general research and technical support, rent, and other operating expenses. The report also concluded that improper tracking of NSPS costs up until that point would make it impossible to ever determine the true cost of NSPS.

For the Department, that was determined to conceal the true cost of the program, this was mission accomplished. Given the vacuum of data required to determine a true cost of the program, one can only estimate how much the American people have been forced to spend on this ill-conceived reform. However, any realistic estimate would run well into the billions of dollars.

It should be noted that DoD is, in the best of scenarios, several years away from implementing NSPS fully. In our estimation, NSPS will cost the American people billions of dollars more if the personnel system is not repealed.

Fixing the NSPS Error Grows More Difficult With Each Passing Day

If Congress is going to decide to scrap NSPS, it is best to make that decision immediately. With each passing day, the problem of transferring workers back into the GS pay system from NSPS becomes more difficult. With each passing day, our country is throwing good money after bad trying to implement a personnel system that should never have been adopted in the first place.

As previously noted, workers under NSPS have enjoyed extremely generous pay increases, and are now making substantially more money than they would be under the GS pay system. Because of this, converting employees back into the GS is going to be a challenge, but a very manageable one. In fact, there is already detailed guidance on the method by which NSPS workers could be converted to GS. However, if these workers are left under NSPS for another year or two before being converted back to the GS system, it could become infinitely more difficult and costly to make the change.

Conclusion

Even though collective bargaining and employee appeals have been restored under NSPS for bargaining unit workers, the personnel system is still being used as a way to eliminate Defense employees' voice in the workplace. The agency has done everything in their power to craft NSPS language that will free them of the responsibility of dealing with employee unions. Without question, NSPS will be used by agency managers to reward friends and punish enemies, and with greater authorities under NSPS, they will have more leverage than ever to do so. In many ways, NSPS is a throw-back to the "spoils system" which was wisely abandoned long ago. We see no good reason to turn back the clock and relive those forgotten lessons.

NSPS is failed personnel system that is on its last breath. The plan does none of the things that it originally set out to do, like link pay with actual performance or reduce hiring times. Because of the early decisions that were made to keep employees and their employee representatives out of the planning on NSPS, the system has very little credibility with Department employees. Despite the best efforts of the agency to gain approval for the new pay system, including giving enormous raises to those already under NSPS, the personnel system is still suffering from declining confidence among participants. In addition, pay and promotion systems under NSPS are unfair, and it has severely diminished morale within the department.

Clearly, NSPS will not work in its current form, so the question becomes whether to scrap NSPS altogether or to find a way to adjust it to make it work.

There are four main reasons why the former option makes the most sense for NSPS. First, Department employees already have considerable mistrust about NSPS. They have already concluded that NSPS is a bad personnel reform and they don't want it. Any window dressing you put on it is not going to change the minds of employees that have already had six years to form their unfavorable opinion of the controversial personnel plan. Second, given two wars and a wave of federal retirees, this is a crucial time for DoD to have a stable personnel system it can rely on. DoD has been in a semi-permanent state of transition for several years, and employees at all levels of the agency will welcome the end of this tumultuous period. Third, every day we delay the repeal of NSPS, we dig our hole deeper, making the adjustment back to the GS system more expensive and complicated. Fourth and finally, our country simply does not have the money right now to spend billions of dollars more on a personnel system that will likely never be fully implemented and will never work as advertised.

We should cut our losses on this debacle once and for all. NFFE strongly supports the full repeal of NSPS for all DoD workers in the Fiscal Year 2010 Defense Authorization Bill.

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STATEMENT OF

**THE AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO
FOR THE RECORD**

BEFORE THE

**HOUSE ARMED SERVICES COMMITTEE
SUBCOMMITTEE ON READINESS**

ON

THE NATIONAL SECURITY PERSONNEL SYSTEM

APRIL 1, 2009

On behalf of the more than 250,000 civilian employees of the Department of Defense represented by the American Federation of Government Employees, AFL-CIO (AFGE), I thank you for the opportunity to submit testimony on the National Security Personnel System (NSPS). From the outset, NSPS generated anxiety and mistrust among the Defense Department's civilian employees. The events of September 11, 2001 called for putting additional resources and staff, improved training and inter-agency communication, and a heightened sense of morale and purpose into defending our national security. Instead, DoD and OPM used the moment as an opportunity to strip away most collective bargaining rights from civilian employees, severely limit their civil service protections and due process rights, and create a personnel system that was opaque, unfair, confusing and highly controversial. To date, neither OPM nor DoD has been able adequately to explain how NSPS has anything to do with national security or how it might make the American people safer.

When the proposed NSPS regulations were published in the Federal Register on February 14, 2005, over 58,000 DoD employees, their unions and other interested parties sent in responses during the public comment period. DoD admitted that over 90% of the comments were negative. After the Congressionally- mandated "meet and confer" process with AFGE and other unions in the United Defense Workers Coalition (UDWC), DoD published final regulations on September 1, 2005 that made no substantive changes to the widely criticized and unpopular proposed regulations. DoD retained what it called a "collective bargaining" system, but which met no recognized definition of collective bargaining. It allowed the employer to abrogate contracts unilaterally and decide over what it could refuse to negotiate. It placed authority to resolve labor-management disputes in an internal board, controlled by the Department.

The final 2005 regulations stripped civilian employees of many of their workplace rights and due process procedures. The regulations also set out a reduction-in-force (RIF) process, which eroded the rights federal employees have under government-wide RIF policies, and would have allowed DoD to narrowly target employees for layoff. The regulations established, but gave few details of, the pay, performance management and classification systems that would make up NSPS. However, rather than an investment in a high performance culture, NSPS is a cost-containment system that depends on taking money from some good employees in order to pay others more. DoD also decided against trying to make NSPS a transparent system that employees understand and trust; instead, NSPS puts bureaucratic layers and behind-closed doors decision-making between an employee's performance and final pay. In the short time NSPS has actually been implemented, it has already resulted in discriminatory pay and advancement decisions.

In response to widespread complaints and concerns, Congress passed the National Defense Authorization Act of 2008 (NDAA 2008), which made significant changes to NSPS. The Secretary of Defense's ability to put all of the annual

increase given to other federal employees into the performance pay pools for NSPS employees was limited – no less than 60% of this nationwide increase had to be applied to all employees rated higher than “unacceptable.” The rights and protections of the government-wide adverse actions and appeals processes were restored to Department of Defense NSPS civilian employees. And NSPS employees would no longer be under a separate RIF process, but would be back under the process that covers all other federal agencies.

The NDAA 2008 also restored the collective bargaining rights and obligations of 5 U.S.C. Chapter 71, with a few restrictions. DoD has attempted to stretch those restrictions beyond Congress’ intent that full collective bargaining take place. For example, the NDAA 2008 allowed for provisions that met certain criteria to be considered “government-wide” rules for the purpose of limiting collective bargaining. We believe this was intended to be used sparingly, but DoD has tried to make as many details as possible subject to this provision. When NSPS was first being developed, OPM counseled DoD against putting too much detail in its Federal Register Notice because any future changes would then require dealing with the unions and the public. Instead, OPM advised that the details be put into internal “issuances.” In its proposed regulations of February 14, 2005, DoD released “issuances” capable of overriding existing labor contracts and barring future bargaining. When Congress restored Chapter 71 collective bargaining rights in the NDAA 2008, DoD could no longer unilaterally declare that something is not negotiable by simply issuing an issuance. In response, the Department did an about-face and put as many details as possible into its 2008 regulations in an attempt to limit bargaining under the government-wide rule provisions.

In the NDAA 2008, Congress also declared that “rates of pay” would be non-negotiable, but would be subject to bargaining obligations over the procedures to be used and appropriate arrangements for any employees who might be adversely affected by such pay decisions. DoD’s response was to put into its regulations a definition of “rate of pay” that went far beyond Congressional intent and included just about everything that even remotely touches on the amount of pay an employee receives. Time after time, DoD has demonstrated its unwillingness to accept its obligation to negotiate in good faith over NSPS provisions.

The NDAA 2008 required DoD to set up a personnel system that was fair, credible and transparent. Instead, NSPS’ pay and performance systems are opaque, mysterious, confusing and prone to inequities. The problems go well beyond pay-for-performance matters. NSPS allows managers to give employees more money, new jobs, and advancement opportunities without promotions, and without using competitive processes or even giving other employees notice of the opportunities. These are called “reassignments” in NSPS, but they can include a pay raise, unlike most reassignments in most organizations. Managers can move employees ahead in the pay band and give a pay increase, not because of

their performance ratings, but because of a change in duties or a new position. Because many of these opportunities do not need to be advertised to other eligible employees or filled through competition, there are far too many chances for discrimination and favoritism to occur, whether intentional or not.

The pay-for-performance system in NSPS is also highly problematic. At the beginning of the rating period, supervisors give their employees performance plans that include job objectives and so-called "contributing factors," which can raise or lower the rating on their associated job objective by one point. At the end of the rating period, usually in October, supervisors will submit their recommended ratings, number of shares, and distribution between cash bonus or pay increase to the pay pool panel for each of their subordinate employees. *Because each acceptable or better rating has a range of performance pay pool shares that can be given, employees in the same job, and pay pool can get different performance payout amounts for the same performance rating.* Employees in different pay pools can get widely varying payouts for the same rating because the pay pools can be funded differently.

At the time the supervisor submits the recommendation to the pay pool, he or she is forbidden to tell the employee the recommendation, i.e., what the supervisor actually felt about the performance during the year. Instead, the pay pool panel, made up of managers who may or may not know much about the employee's performance or job, will decide the ratings and payouts for the subordinates of the several supervisors within their pay pool. But it doesn't necessarily end there. Many NSPS employees are in what are called "sub-pay pools." Several of these sub-pay pools are part of an over-arching main pay pool. Each sub-pay pool panel goes through its deliberations to decide whether to change or accept the recommended ratings of supervisors in the sub-pay pool and how many shares to give each employee, and whether to give it in the form of a pay raise, a cash bonus, or a combination of the two. The determinations of the sub-pay pool panels are not decisions, however, but are further recommendations that go to the main pay pool panel. The main pay pool panel is made up of managers who are now several layers removed from the employees they are rating and rewarding. They may know little or nothing about the individual employees and the work they do.

The pay pool panel, whether of a sub-pay pool or the main pay pool, can make decisions about the rating and payout based on a number of factors, some outside the employee's control. We have heard from managers currently under NSPS, who say that employees who do not work in or near the Pentagon or directly for a major command, are not considered to be doing anything important enough to the mission to warrant a level 5 rating, no matter how good their performance may be. We have heard about a secretary in a pay pool with engineers in a facility whose mission is engineering. That secretary could be absolutely outstanding but not get a high payout because the job is not as directly connected to the mission as the engineers' jobs are. Employees have

told us that they got lower ratings and payouts because the pay pool panel did not think their supervisors wrote good job objectives that clearly connected their work with the mission of the agency.

Pay pool panels also consider the labor market, recruitment and retention issues, and artificial barriers in the pay bands, called “control points” in determining performance payouts – all factors which are outside the employee’s control and separate from the employee’s job performance. An employee could be in a pay band that goes from \$35,000 to \$80,000. That employee, however, could be in a job that the agency considers to be worth no more than \$60,000 so a “control point” barrier is placed at the \$60,000 point in the band. The grades in the General Schedule (GS) system work well to create pay ranges that fit the market value of the job. An employee in a broad NSPS pay band, however, can work very hard and exceed all job expectations, but never be allowed to get above the \$60,000 point despite the illusion of having greater opportunities for advancement because their band goes to \$80,000. Instead of feeling a direct connection between their performance and their ultimate performance payout, employees tell us how bewildering the whole process is.

From the time supervisors submit their recommended ratings and payouts to the pay pool panel, a good three months go by until the payout decisions are made. Supervisors are allowed to tell their employees their ratings and payouts only shortly before they receive their checks in January. The whole pay pool process takes place behind closed doors and the various participants are required to sign “non-disclosure” agreements. Components instruct their supervisors to go into the performance management system, whether electronic or paper, and change the recommendations they made and any write-ups they did supporting those recommendations, so that they conform to the final decisions of the pay pool panel. At least one agency goes so far as to tell supervisors that no matter what their original recommendations were, what the pay pool panel decided is now how they rated their subordinates.

Although DoD has not published data in any regular manner, on August 10, 2008, the *Federal Times* published an article describing the results of its request for data concerning the NSPS performance payouts. What reporter Stephen Losey found was that, “White employees received higher average performance ratings, salary increases and bonuses in January than employees of other races and ethnicities.” In addition, the *Federal Times’* analysis showed that employees who worked for the Defense agencies, including the Office of the Secretary of Defense, received higher ratings and payouts overall than did their civilian counterparts in the three military service branches. In the article, the Department stated that it did not know the reason for the inequalities in ratings and compensation, but said that the fact that different organizations within the Department can fund their pay pools differently could account for part of it. It is no wonder that employees do not trust NSPS and do not believe it is fair, credible or transparent.

In the February 2009 issue of "Issues of Merit," published by the Merit Systems Protection Board (MSPB), Dr. John Crum, director of the MSPB Office of Policy and Evaluation wrote about pay for performance. Dr. Crum, who is one of the witnesses at this hearing, remarked on the problems that DoD and DHS have had trying to implement their systems. He noted that the GS system was designed as a pay for performance system, but that managers rarely use its performance-based features.¹ Dr. Crum suggests that before agencies create new systems, they should first start "using the options that are currently available to them in an appropriate and transparent manner." Among other things, this can allow supervisors to be "able to demonstrate to employees that they can be trusted to make fair decisions that affect their subordinates' pay..."

DoD has said that it does not intend to convert any bargaining unit employees into NSPS. At this point that is a statement of intent – nothing prevents DoD from changing its mind in the future. But it is not enough to refrain from converting current bargaining unit employees to NSPS. DoD can start hiring most new employees into positions it deems to be NSPS. Employees who are now covered by NSPS can organize and join the approximately 300 AFGE bargaining unit members who became part of the union after they converted to NSPS. Having part of the workforce under NSPS is troubling for many reasons. For one thing, DoD can divert discretionary funds that normally would be available for awards or other economic benefits to GS employees and use them to increase the pay pools for NSPS employees.

DoD recently said that it is delaying converting any employees, whether bargaining unit or not, into NSPS. We are getting troubling reports, however, about employees converted to NSPS after that announcement. Primarily, these are conversions that are being made as the result of BRAC transfers and realignments, but we also suspect that there are other instances. We want to know how many employees have come under NSPS since DoD said that it would not convert any more positions. We would like to know how many of these have

¹ The General Schedule's flexibilities include: special pay rates for certain occupations, critical pay authority, recruitment and retention flexibilities that allow hiring above the minimum step of any grade, paying recruitment of relocation bonuses, paying retention bonuses of up to 100% of basic pay, paying travel and transportation expenses for new job candidates and new hires, allowing new hires up to two weeks advance pay as a recruitment incentive, allowing time off incentive awards, paying cash awards for performance, allowing "quality step increases" as reward for excellent performance, allowing student loan repayment, paying supervisory differentials to GS supervisors whose salaries were less than certain subordinates covered by non-GS pay systems, waiver of dual compensation restrictions, changes to Law Enforcement pay, special occupational pay systems, pay flexibilities available to Title 5 health care positions, and more.

been new hires and how many have been current employees brought under NSPS.

If left in place, we believe that NSPS would grow considerably. DoD can start making most newly hired employees NSPS and can use BRACs and reorganizations as an excuse to convert employees to NSPS. NSPS is an expensive, complicated system that harms employee morale, obscures rather than illuminates the connection between employees' performance and their pay, and results in discriminatory practices. Congress should repeal the authorities associated with NSPS and direct DoD to immediately convert all civilian DoD employees now under NSPS to the General Schedule

STATEMENT OF THE LABORERS' INTERNATIONAL UNION OF NORTH AMERICA
To the Readiness Subcommittee, House Armed Services Committee Hearing on the National
Security Personnel System

April 1, 2009

The Laborers' International Union of North America (LIUNA) applauds Congress for making several important changes to NSPS in the FY 08 National Defense Authorization Act. These included: restoring collective bargaining rights for workers in the National Security Personnel System (NSPS), and exempting Wage Grade workers from the NSPS. The first change benefitted the DoD workers represented by LIUNA by reinstating the critical right to negotiate their working conditions. The second change exempted most National Guard civilian technicians represented by LIUNA from the flawed NSPS system. These legislative changes greatly benefit the workers represented by LIUNA.

However, despite the positive actions taken by Congress in the FY 08 NDAA, more needs to be done. LIUNA asks that Congress repeal the remaining NSPS provisions in their entirety and revert all DoD civilian employees back to the General Schedule or other systems under which they were classified prior to NSPS's inception. We believe that this will restore labor-management balance and will encourage a more positive and productive labor-management relations structure.

There are several reasons for our request. First, it is unclear whether NSPS is actually effective. Second, NSPS has been a major contributing factor to decreased morale among DoD civilian employees. Third, managers are spending a great deal of time complying with NSPS requirements rather than actually managing staff; this is a waste of valuable DoD resources. Finally, NSPS was construed as an anti-employee, anti-union system from its inception. It is time to undo that system and restore a more balanced management approach at DoD.

Even if NSPS is repealed completely, LIUNA asks that Congress prevent, or at least oversee, DoD's application of some of its most flawed concepts to other DoD civilian bargaining unit employees. For example, the National Guard Bureau (NGB) seems to be taking advantage of the increased scope of unilateral action provided for in NSPS to substantially change its procedure of allowing individual collective bargaining to establish performance systems to a nation-wide 5-tier system.

NGB originally tried to unlawfully borrow NSPS concepts like measuring the vague concept "job objectives." After LIUNA and other unions objected to this provision, NGB has exchanged those concepts for more measurable ones. However, NGB is still attempting to require a 5-tier system to evaluate technicians' job performance.

This change is flawed for several reasons. First, it appears to be contrary to the DoD Personnel Manual, which requires that DoD delegate these responsibilities to the "lowest level practical." In contrast, the proposed TPR 430 takes authority away from state Adjutant Generals regarding performance evaluations and gives it to NGB. Second, proposed TPR 430 would require all dual-status technicians to be evaluated under a 5-tier system. However, many technicians

represented by LIUNA are currently evaluated by performance systems with fewer than 5 tiers. This change will require bargaining over the impact and implementation of the new system. The change will also likely initially lead to confusion over how to convert the current ratings levels to the new 5-tier system. Dual-status technicians rely on these ratings to retain their positions in case of a reduction in force. Thus, it is essential that NGB/DoD seriously consider these ramifications of the proposed TPR 430 before they implement it. LIUNA asks that NGB hold off implementing TPR 430 until these issues are resolved.

In short, it is time to repeal NSPS and return our DoD civilian workers to their former systems (GS or otherwise). Congress must ensure that DoD/NGB do not rely too heavily on the flawed NSPS system to impose new performance standards on workers exempt from NSPS.

For more information, please contact: Danielle LeClair, LIUNA Federal Sector Coordinator, at: 202-639-4145 or dleclair@liuna.org.

**WITNESS RESPONSES TO QUESTIONS ASKED DURING
THE HEARING**

APRIL 1, 2009

RESPONSE TO QUESTIONS SUBMITTED BY MR. ORTIZ

Mr. BUNN. We have that information.

For the current rating period, 4.7% of the NSPS employees received the highest rating, level 5.

The following table shows a breakdown of the Level 5 ratings by years of service.

Years of Service	0-3	>3-10	>10-20	>20-30	>30
Level 5 Rating	14.2%	29.5%	20.9%	26.8%	8.6%

The following table shows a breakdown of all five rating levels by years of service.

Years of Service	0-3	>3-10	>10-20	>20-30	>30
Level 1	0.1%	0.3%	0.3%	0.3%	0.3%
Level 2	0.9%	1.0%	1.4%	1.3%	1.5%
Level 3	60.0%	52.3%	54.7%	55.2%	56.2%
Level 4	34.8%	41.1%	38.9%	38.8%	37.3%
Level 5	4.2%	5.4%	4.6%	4.4%	4.7%

This table shows the distribution of ratings by years of service.

Years of Service	Level 1	Level 2	Level 3	Level 4	Level 5
0-3	0.1%	0.9%	60.0%	34.8%	4.2%
>3-10	0.3%	1.0%	52.3%	41.1%	5.4%
>10-20	0.3%	1.4%	54.7%	38.9%	4.6%
>20-30	0.3%	1.3%	55.2%	38.8%	4.4%
>30	0.3%	1.5%	56.2%	37.3%	4.7%

[See page 31.]

QUESTIONS SUBMITTED BY MEMBERS POST HEARING

APRIL 1, 2009

QUESTIONS SUBMITTED BY MR. ORTIZ

Mr. ORTIZ. The number one complaint of managers in the federal government is the hiring process. NSPS was designed not only to transform DOD's performance management system for employees, but to also provide the department with greater flexibility in hiring employees. How has the department used the hiring authorities under NSPS and what, if any, impact has it had on the department's operations? What are the major challenges that the Department has encountered?

Mr. BUNN. The Department does not collect statistics to be able to respond definitively to your questions about the use of the staffing flexibilities, but we do know that some, such as the competitive examining authority, the authority to temporarily promote non-competitively up to 180 days, and the authorities associated with non-permanent appointments, are being used. Others have not been fully utilized, as the Department has placed greater emphasis up to now on the rigorous performance management process under the National Security Personnel System (NSPS). Notwithstanding, we do know that the broad NSPS pay band architecture provides greater flexibility to offer more competitive salaries based on national and local market conditions. Anecdotally, in discussions with senior leaders in NSPS organizations, we learned that NSPS has given them the ability to be more competitive in setting and adjusting salaries based on labor market forces, performance, and changes in duties. For example, the NSPS regulations instruct that management can set starting pay based on the availability of candidates and labor market rates; specialized skills, knowledge, and/or education possessed by the candidate in relation to the requirements of the position; critical mission or business requirements; salaries of other employees in the organization performing similar work; and the current salary of the candidate. In contrast, pay setting under the General Schedule (GS) system is generally more rigid and restrictive. For example, under the GS system, starting salaries are generally restricted to the first step of the grade of the position the candidate is recruited for, which may not be in line with actual market conditions.

What empirical data we have comes from the 2008 Status of Forces Survey of Department of Defense (DoD) civilian employees. Participants were asked to respond to the following:

- My work unit is able to recruit people with the right skills.
Agree: 47 percent NSPS employees 44 percent non-NSPS
- How likely is it you will leave at the next available opportunity to take another job in the Federal government outside DoD?
Likely: 34 percent NSPS employees 36 percent non-NSPS
- Pay raises depend on how well employees perform their job.
Agree: 42 percent NSPS employee 25 percent non-NSPS
- Considering everything, how satisfied are you with your pay?
Satisfied: 65 percent NSPS 62 percent non-NSPS

Through the on-going evaluation processes we have in place, we will gather information about NSPS hiring authorities to evaluate the extent of their use and whether they are having the intended impact on the Department's operations. Our greatest challenge is in training and educating the NSPS workforce concerning the NSPS flexibilities—what we can do, how we can do it, and why/when we should do it.

Mr. ORTIZ. The average salary increase was about 5.9 percent in 2008 and the total average salary plus bonus payout was about 7.6 percent. What concerns, if any, does the department have about the sustainability of compensation under NSPS?

Mr. BUNN. Congress has provided in the National Security Personnel System (NSPS) statute that, to the maximum extent practicable, the aggregate amount allocated for compensation of Department of Defense civilian employees under NSPS will not be less than if employees had not been converted to NSPS. NSPS redirects compensation dollars from forms of General Schedule (GS) system compensation that no longer exist under NSPS (i.e., within-grade increases, quality step increases, and promotions to higher grades) as well as a percentage of the annual general sal-

ary increase to the NSPS-unique forms of performance-based and market-sensitive pay. In general, NSPS annual pay increases consist of:

- Performance-based payouts in the form of base salary increases, bonuses, or a combination of both;
- A NSPS general salary increase for employees receiving a rating of record of 2 or higher; and
- An increase to local market supplements equal to the increases to GS locality pay rates as described above.

Because the NSPS compensation architecture is so different from that of the GS system, making direct comparisons between average pay increases is misleading, as it is not an “apples to apples” comparison. However, the Department continues to monitor the overall cost of compensation under NSPS and ensure annual certification in support of section 9902(e)(4) of title 5, United States Code. Further, now that the Department has several years of operating under NSPS, a more comprehensive review of NSPS funding is planned to ensure that percentages used to determine performance payout funding reflect valid and accurate assumptions.

Mr. ORTIZ. The GAO, in its 2008 report, highlighted a number of negative perceptions that employees had with NSPS. Interestingly, the negative feelings towards NSPS increased, rather than decreased, the longer an employee was in the system. According to GAO, without a plan to address employees’ negative perceptions of NSPS, DOD could miss opportunities to make changes that could lead to greater employee acceptance and, ultimately, successful implementation of NSPS’s performance management system. Why, for a system that has been in place for over three years, have you not developed and implemented an action plan to guide your efforts to address the results of employee surveys? What is the Department doing to improve employee acceptance of NSPS?

Mr. BUNN. Employee attitudes and perceptions regarding the National Security Personnel System (NSPS) are best described as “mixed.” The Office of Personnel Management (OPM) recently reported that NSPS employees are generally positive about certain important aspects of NSPS, including how their work and performance objectives relate to the mission; that they are held accountable for results; and that pay increases and rewards are based on performance. We have seen a decline in attitudes in certain areas (as cited by Government Accountability Office (GAO) in its 2008 report), including whether employees believe their rating is a fair reflection of their performance; satisfaction with management; and their perception that NSPS will have a positive effect on personnel practices in the Department of Defense (DoD). More recent survey data indicate that attitudes among employees with the most experience in NSPS are becoming more positive, an encouraging and not unexpected sign.

Both GAO and OPM noted in their 2008 reports that a decline in workforce attitudes is typical of major change initiatives, and it generally takes three to five years for employees to fully understand and accept new personnel systems. More recently, GAO testified that it can take 5-7 years for acceptance of a new personnel system. We continue to learn from employee and management feedback in many forms, share lessons, and make operational improvements in NSPS, which should contribute to greater acceptance of the system.

Since the initial Spiral 1.1 implementation, the Department has been actively involved in supporting and advising Components in developing comprehensive programs to assist NSPS employees in adapting to the new system. Components are responsible for implementing robust communications and training programs to address employee skepticism and concerns that the majority of employees face when faced with a major personnel system change. We encourage Components to continually assess employee attitudes and leverage information and data obtained through NSPS reviews and studies to ensure communications and training programs are properly aligned to meet employee needs. In turn, the Program Executive Office (PEO) NSPS continues to support these efforts thru sponsorship of broad-based programs, products, and initiatives. Examples include:

The NSPS Website—the primary source for NSPS information. The website is routinely updated to reflect most recent events and activities. The site also includes a recurring feature “And the Answer Is” that poses a question and answer of particular interest.

NSPS Fact Sheets—Short, concise 1-2 page memos that address key topics of interest or areas where additional focus or grounding is needed. The most recent fact sheet addressed the issue of forced distribution. All NSPS fact sheets are available on the NSPS website for downloading.

NSPS Communications Plans—Specific communications plans are provided to the Department’s leadership for their use in informing the workforce about key events and activities. The plans are developed to coincide with significant NSPS events such as the publication of the final regulations and the upcoming comprehensive review of NSPS. Plans include talking points and frequently asked questions to ensure employees are kept informed.

NSPS Leadership Workshops—Designed for NSPS pay pool managers and panel members, workshops are held at least annually to provide the opportunity to share lessons learned, learn and reflect upon the organizational challenges and success stories that are a part of NSPS implementation.

NSPS Human Resources Practitioner Sensing Sessions—Eleven sessions with DoD Component activities were held in January and February 2009 to obtain feedback on existing learning products and support, identify knowledge gaps or needs for additional products or support, and explore options for the next generation product line. These sessions confirmed the need for timely, up-to-date information and additional materials geared toward application. As a result of these sessions, the PEO is revising and updating learning products with an emphasis on use of the web for making information easy to access.

Notwithstanding these efforts, we know from experience with the Department’s demonstration projects and from what GAO and OPM have observed about other alternative personnel systems that it will take several years for employees to accept NSPS, and the need for focused and deliberate programs to build the trust and confidence level of NSPS employees will continue.

Mr. ORTIZ. One of the safeguards in the National Defense Authorization Act for 2008 required DOD’s performance management system to ensure that meaningful distinctions were made in employee performance and, therefore, compensation. In GAO’s September 2008 report, it found that there was informal guidance that most employees should be rated as a “3,” and as a result GAO recommended that the department clarify its guidance to ensure meaningful distinctions are made and that employees will be less likely to perceive that everyone would receive a “3” no matter what their performance was. What steps has the department taken to clarify its guidance about ratings and making distinctions in employee performance?

Mr. BUNN. The Department is aware that a perception of forced distribution in the rating process exists. However, the National Security Personnel System (NSPS) regulations specifically state that forced distribution is strictly prohibited. The NSPS performance management system is designed to make distinctions among employees based on a rigorous evaluation of individual performance against standard criteria. These criteria, by design, challenge employees, set a higher bar for higher performance ratings, and reserve the highest rating levels for those who deliver exceptional results.

An analysis of the January 2009 rating distribution across the entire Department demonstrates success in making meaningful distinctions in performance and in linking individual pay to performance. While approximately 55 percent of NSPS employees received a level 3 performance rating in January 2009, 43 percent of NSPS employees received either a level 4 or level 5 performance rating. This is consistent with rating distributions for January 2007 and 2008. The range of rating distributions illustrates that meaningful distinctions in performance are being made. Additional distinctions are made through the assignment of shares within each rating level.

Based on concerns and perceptions expressed by employees, rating officials, and other stakeholders, we felt it was important that all those who participate in the performance management process fully understand the concept of forced distribution, why it is prohibited under NSPS, and how to avoid it. For this reason, guidance was distributed to the Department of Defense Components and is available on the NSPS website to remind rating officials, higher level reviewers, pay pool panel members, pay pool managers, and performance review authorities that employee performance under NSPS is measured against rigorous and strict application of standard performance indicators and that forced distribution in the rating process is prohibited.

Mr. ORTIZ. Military supervisors have complained about the amount of time they must spend with their NSPS employees and the civilian NSPS employees complain that their military supervisors do not understand the system and do not spend the appropriate amount of time to do the ratings, which negatively impacts on their performance ratings. Are these valid concerns? Should NSPS continue, what can be done to address these complaints?

Mr. BUNN. We recognize that the design of the National Security Personnel System (NSPS) and the safeguards built into the system result in increased time demands,

especially during the start-up years. However, the Department of Defense's (DoD) experience with personnel demonstration projects indicates that the amount of time required for the same tasks levels off and even decreases as the organization gains experience with the performance management and pay pool processes. Additionally, as experience and efficiency increase, organizations tend to parlay the process of reviewing individual performance into an examination and driver of overall organizational performance, thus increasing the return on their investment of time.

We also acknowledge that additional challenges are presented when military supervisors are faced with frequent rotational assignments. However, military supervisors have the same performance management responsibilities for their civilian employees as do civilian supervisors. The regulations clearly identify supervisory responsibilities and both civilian and military supervisors must meet their responsibilities for managing employee performance under NSPS. The NSPS regulations specify that supervisors and managers will be held accountable for effectively managing the performance of employees under their supervision and that the performance assessments of supervisors should reflect the quality of their efforts in managing the performance of the NSPS employees under their supervision. The Department is committed to training managers and supervisors, including military members, on how to establish and communicate performance expectations, assess employee performance, and appropriately translate that assessment into pay adjustments. Mandatory NSPS training is required of both civilian and military supervisors and managers prior to their performing the necessary NSPS performance management functions.

We anticipate that the issue of increased administrative demands resulting from this more robust performance management process will be a topic of consideration during the DoD comprehensive review of NSPS.

Mr. ORTIZ. What infrastructure does DOD have in place to provide a comprehensive picture of costs, expenses, and other financial information related to NSPS activities?

Mr. BUNN. The Department put in place the infrastructure to capture the National Security Personnel System (NSPS) implementation costs. In 2005, the Program Executive Office, NSPS established a DoD-wide Financial Integrated Product Team (IPT) to establish requirements for the Components to track and report quarterly on implementation costs. Five key areas were identified: (1) Design and Implementation; (2) Training Development, Support, and Execution; (3) Human Resource (HR) Automated Systems; (4) Program Evaluation; and (5) Program Office Operations. The key areas were defined, and Components began submitting costs in fiscal year 2005.

The Financial IPT reconvened in July 2007 to recommend revisions based on a Government Accountability Office report issued that same month. The Department continues to collect implementation costs based on these revisions. The Department does not have an infrastructure set up to collect financial information related to other NSPS costs and does not track, other than salary and benefits, other HR system (General Schedule, Federal Wage System, Personnel Demonstration Projects at Defense Laboratories) costs.

Mr. ORTIZ. In response to a letter from Chairman Skelton and Readiness Subcommittee Chairman Ortiz urging the Department to discontinue converting employees to NSPS until the Administration and Congress can properly address the future of the Department's personnel system, Secretary Gates stated that DOD has begun a comprehensive review of NSPS and stopped the conversion of GS employees to NSPS. However, new hires and positions that are being reclassified still will be brought under NSPS. The intent of the congressional letter was to halt all movement into NSPS until such time as the Administration and Congress could conduct a review. Continuing to place new hires and reclassified positions into NSPS appears to subvert the intent of Congress. As the Department continues to augment its workforce, more individuals will be hired into NSPS, potentially making it a tremendous challenge to transition these employees (and ones in reclassified positions) to a GS system or whatever new system will replace NSPS. Why is the Department continuing to use NSPS for new hires and reclassified positions even when congressional intent and earlier statements by the President have strongly indicated that no further action should take place with regard to NSPS until a review has been undertaken? Why shouldn't Congress view the actions being taken by DOD with regard to new hires and reclassified positions as being a presumption by DOD that it has already decided to continue NSPS (with or without the results of the review)? If the results of the review point to a return to the GS schedule or some other system, how will DOD handle the transition for the potentially thousands of new hires it may be bringing on in the coming months?

Mr. BUNN. In his March 16, 2009 letter to Chairman Skelton and Chairman Ortiz, Deputy Secretary Lynn stated that the Department is committed to operating fair, transparent, and effective personnel systems. This commitment has not changed.

In response to their request for the Department to delay conversions to the National Security Personnel System (NSPS), the Deputy Secretary advised Chairmen Skelton and Ortiz that further conversions of organizations will be delayed pending the outcome of a comprehensive review of NSPS. He noted that this delay of conversions affects roughly 2,000 employees in organizations scheduled to convert to NSPS this spring. However, during the review, those organizations currently under NSPS will continue to operate under NSPS policies and processes. This means processing of normal personnel actions will continue for individual employees moving into existing, reclassified and new NSPS positions in organizations and functional units now under NSPS.

Although existing NSPS organizations continue to follow NSPS policies, the Department of Defense (DoD) has not made any decision regarding the future of NSPS. The review will determine the future of NSPS. It would be premature and disruptive for the Department to stop using NSPS policies in NSPS organizations before the review is completed.

Filling jobs and reclassification of positions are essential tools in helping ensure an organization is successful in meeting mission requirements. If NSPS jobs cannot be filled or properly classified while the review is pending, this may impact the organization's—and the Department's ability to meet mission requirements.

As noted, DoD is committed to operating fair, transparent, and effective personnel systems. DoD and Office of Personnel Management leadership intend to fully assess NSPS before making any decisions regarding its future. The review will include a comprehensive and thorough examination of all NSPS policies, regulations, and practices, and will result in findings and recommendations aimed at assisting the leadership under the new administration to determine the future of the program. Finally, it is also important to emphasize that the Department is not bringing in any bargaining unit employees to NSPS.

The Department is reviewing options, including existing conversion out procedures, should the review result in NSPS employees being moved to a different pay system, such as the General Schedule. A transition process has not yet been determined while the review of NSPS is pending. However, the Department's goal of any process, should one become necessary, is to ensure that no harm comes to our employees as a result of being removed from NSPS.

Mr. ORTIZ. GAO noted that NSPS was implemented too quickly. What steps could have been taken to roll out NSPS in a more orderly and fair fashion?

Ms. FARRELL. It was a pleasure to appear before your subcommittee on April 1, 2009, to discuss the Department of Defense's (DOD) implementation of its new human capital system for managing civilian personnel—the National Security Personnel System (NSPS).¹

As we have previously reported, we support the need to expand broad banding approaches and pay-for-performance-based systems in the federal government.² However, moving too quickly or prematurely to implement such programs, whether at DOD or elsewhere, can significantly raise the risk of doing it incorrectly. Hasty implementation could also set back the legitimate need to move to a more performance- and results-based system for the federal government as a whole. Thus, while it is imperative that we take steps to better link employee pay to performance across the federal government, how it is done, when it is done, and the basis on which it is done can make all the difference in whether or not such efforts are successful. In our view, one key need is to modernize performance management systems in executive agencies so that they are capable of adequately supporting more performance-based pay and other personnel decisions.

While our previous work does not prescribe a process and time frames for rolling out systems such as NSPS, we have stressed that agencies should have an institutional infrastructure in place that would include, at a minimum, (1) a human capital planning process that integrates the agency's human capital policies, strategies, and programs with its program goals and mission and desired outcomes; (2) the capabilities to effectively develop and implement a new human capital system; and (3) the existence of a modern, effective, and credible performance management system that includes adequate safeguards, including reasonable transparency and appropriate

¹ GAO, *Human Capital: Improved Implementation of Safeguards and an Action Plan to Address Employee Concerns Could Increase Employee Acceptance of the National Security Personnel System*, GAO-09-464T (Washington, D.C.: April 1, 2009).

² GAO, *Defense Transformation: DOD's Proposed Civilian Personnel System and Government-wide Human Capital Reform*, GAO-03-741T (Washington, D.C.: May 1, 2003).

accountability mechanisms, to ensure the fair, effective, and nondiscriminatory implementation of a new system. Prior to NSPS implementation, we cautioned that, while the DOD leadership had the intent and the ability to implement the needed infrastructure, it did not have the necessary infrastructure in place across the department.

Further, our work has continued to stress the importance of incorporating internal safeguards into the design and implementation of large-scale pay-for-performance programs. In 2008, we evaluated DOD's efforts to implement nine safeguards and accountability mechanisms.³ We found that, while DOD had taken some steps to implement internal safeguards to ensure that NSPS is fair, effective, and credible, the implementation of some safeguards could be improved. First, DOD does not require a third party to analyze rating results for anomalies prior to finalizing employee ratings, and therefore it is unable to ensure that ratings are fair and nondiscriminatory before they are finalized. Second, the process has lacked transparency until recently because DOD did not require commands to publish final rating distributions, though doing so was recognized as a best practice by NSPS program officials at all four components. In 2008, the department revised its NSPS regulations and guidance to require commands to publish the final overall rating results. Third, NSPS guidance may discourage rating officials from making meaningful distinctions in employee ratings because it indicated that the majority of employees should be rated at the "3" level, on a scale of 1 to 5, resulting in a hesitancy to award ratings in other categories. We continue to believe that improved implementation of these safeguards will help bolster employee confidence in the system and ensure that the system is fair, effective, and credible.

Mr. ORTIZ. If NSPS continues, what steps should now be taken to move forward?

Ms. FARRELL. We have previously reported that converting to NSPS was a significant transition for the department.⁴ We have further reported that it will take time for employees to accept the system, based on the studies conducted by the Office of Personnel Management (OPM) on the federal government demonstration projects for performance management. First, and foremost, DOD needs to assess and address employee engagement in the system. DOD has collected survey data and conducted focus groups of employees under NSPS, but it is missing a key piece—an action plan. Our 2008 report recommended that DOD develop and implement a specific action plan to address employee perceptions of NSPS ascertained from feedback avenues such as, but not limited to, DOD's survey and DOD's and GAO's employee focus groups. At a minimum, this plan should include actions to mitigate employee concerns about the potential influence that employees' and supervisors' writing skills have on the panels' assessment of employee ratings and the lack of transparency and understanding of the pay pool panel process. Such a plan would demonstrate to employees that the department is listening to their concerns and making plans to address, as appropriate, the concerns that are identified. In short, DOD needs to tell the employees that they are going to take action on their concerns. In addition, the recently announced study by DOD and OPM is an opportunity to assess the status of the system. While the review intends to include a thorough examination of all NSPS policies, regulations, and practices, we would like to see DOD leverage this opportunity to assess for itself how the department is implementing internal safeguards. Specifically, we are interested in an update of how the safeguards have been incorporated into their policies and how the safeguards are working.

Mr. ORTIZ. The Deputy Secretary of Defense, in cooperation with the Office of Personnel Management recently announced that the department would halt conversions of DOD civilian employees to NSPS, pending the outcome of a review by DOD and OPM. The proposed review will assess whether or not NSPS is meeting its objectives of being a fair, transparent, and effective personnel system. Finalizing the details of such a review's overall framework, scope, timeline, and leadership will take time.

As DOD and OPM leadership hold discussions to determine the overall framework, scope, and timeline of the review, what guidance or suggestions would you give to DOD and OPM to include in the methodology of this study?

Ms. FARRELL. As we have previously reported, the extent to which DOD incorporates internal safeguards into the design and implementation of NSPS and how it addresses employee perceptions of NSPS are key to the success of the system.⁵

³ GAO, *Human Capital: DOD Needs to Improve Implementation of and Address Employee Concerns about Its National Security Personnel System*, GAO-08-773 (Washington, D.C.: Sept. 10, 2008).

⁴ GAO-08-773.

⁵ GAO-08-773.

Moving forward, as DOD and OPM embark on a study of NSPS and review how NSPS operates and its underlying policies, DOD has a unique opportunity to consider our previous recommendations, as well as all of the other internal safeguards key to ensuring that performance management systems in the government are fair, effective, and credible. In addition to a review of internal safeguards, this study provides DOD the opportunity to look at employee engagement in the process and develop an action plan to address employee concerns about NSPS. As we approached our work, we used a methodology that systematically took into account employee input from all levels. We used a combination of survey analysis, interviews, and employee discussion groups to obtain information on employee perceptions. In general, the combination of employee surveys with interviews or discussion groups is helpful because it yields useful information at the population level, as well as the individual employee experience level.

Mr. ORTIZ. One concern expressed by employees who have converted from GS to NSPS is that there is no real career progression. Under the GS system, an employee steadily moves up through the various grades and can actually monitor actual career progression. There appears to be no such similar movement in NSPS; an employee, while receiving pay increases and bonuses, may remain in the same pay band for his/her entire career.

If this is a valid concern, how can it be addressed, if NSPS continues?

Ms. FARRELL. First, DOD needs to collect more information on what the issues are surrounding this employee perception on career progression, including the underlying causes and the extent of this concern, so that the department can determine if it is indeed a valid concern. For example, is there an issue with lack of career progression or are employees perceiving that there is an issue as a result of lack of communication or education on the new system? In our 2008 report, we recommended that the department develop and implement a specific action plan to address employee perceptions of NSPS ascertained from feedback avenues such as, but not limited to, DOD's survey and DOD's and GAO's employee focus groups. We believe that this is another example of how the department could use such an action plan to guide its approach for addressing employee concerns. Specifically, the plan may incorporate various communication and education strategies to help employees understand how the shift from pay grades to pay bands still affords them opportunities for professional development, as well as movement through the pay band. While we acknowledge that change takes time to gain employee acceptance and that the implementation of NSPS is a large-scale organizational transformation, employee concerns, such as these, must be heard and addressed accordingly in order to ensure greater employee acceptance and, ultimately, successful implementation of the NSPS performance management system.

Mr. ORTIZ. Has MSPB evaluated DoD's National Security Personnel System?

Dr. CRUM. No. However, as part of Merit Systems Protection Board's (MSPB) 2005 Government-wide Merit Principles Survey, we did collect baseline data from employees in DoD's major components regarding their satisfaction with workforce management issues in the Department. This took place just as employees were beginning to be converted into NSPS. The data was collected to create a baseline for future comparisons that we plan to conduct once the system has been in place a sufficient amount of time to measure its true impact on agency results.

Mr. ORTIZ. What should be MSPB's role in overseeing and evaluating new personnel flexibilities granted to agencies, such as those under NSPS?

Dr. CRUM. The MSPB's role is critical in examining these new personnel systems. To carry out its statutory responsibility to protect the public interest through a merit-based civil service, the MSPB conducts government-wide research and studies. These studies gather the views and experiences of Federal employees, managers, and other stakeholders, such as agency officials, academicians, and union officials, to accurately gauge the "health" of the civil service and other Federal merit systems.

The MSPB is also responsible for reviewing the effects of OPM's policies, rules, and regulations on the merit principles. We provide an independent, bipartisan evaluation of merit systems and human resources management issues on a much broader scale. We also provide OPM with constructive commentary regarding the effects of its policies and activities on the civil service. Generally, MSPB Board members are appointed to fixed 7-year staggered terms and their tenure is not renewable. Thus the MSPB is uniquely positioned to conduct independent assessments of merit systems and render independent views about issues that affect the whole civil service.

While the MSPB rarely performs studies evaluating the performance of a single agency, MSPB can play a valuable role in conducting independent, bipartisan reviews of the merit systems. The MSPB's government-wide research and studies offer a means to compare the performance of different personnel systems, track the

progress of these individual systems, identify needed improvements, and share best practices government-wide. With regard to the specific flexibilities given to DoD, the MSPB has gathered baseline information that will help interpret the effects of the system on the efficiency and effectiveness of NSPS's operations over time.

Mr. ORTIZ. Agencies are increasingly turning to newly established appointing authorities and flexibilities to speed the hiring process. Do these new procedures result in faster hiring decisions?

Dr. CRUM. There are a number of flexibilities available to agencies that have streamlined hiring processes, such as Direct Hire and the Federal Career Intern Program. These processes can differ from competitive service hiring in one or more of the following respects:

- Recruitment—how agencies may publicize positions and accept applications;
- Eligibility—who the agency may consider for appointment;
- Assessment—how agencies evaluate applicant qualifications;
- Consideration and selection—how agencies must sort or rank applicants, and how agencies may select among applicants;
- Applicability of public policy requirements such as veteran's preference and career transition assistance programs for displaced Federal employees; and
- How the probationary or trial period is implemented.

We have found through our research that using these flexibilities does not guarantee that the hiring process will be faster. For instance, our study of Federal entry-level new hires found that 39 percent of the excepted service new hires (including Federal Career Interns) and 34 percent of competitive service new hires reported being offered a job within 2 months or less after applying; this is not a large difference. Furthermore, 27 percent of excepted service new hires indicated that it took over 6 months to be hired, while 17 percent of competitive new hires reported the same.

Our research has found that excepted service hiring processes often mirror those of competitive service hiring. In fact, some excepted service hiring could be viewed as more thorough and competitive because they use recruitment, application, and assessment processes that reach a wider segment of society and do a better job of predicting success on the job. Often, these organizations do not use these flexibilities solely to make the process faster, but also to make use of provisions associated with these flexibilities such as the longer training and probationary periods offered by some of these authorities.

Mr. ORTIZ. Agencies do a poor job of communicating with applicants. Applicants may apply for a job and never hear from the agency again. What can agencies do to improve their timely feedback to all applicants of their status in the process?

Dr. CRUM. The MSPB has long recognized that communication with applicants has been a problem in the Federal hiring system. Our studies on Federal hiring practices have continuously shown that lack of communication has been an issue raised by applicants. New hires indicate that they often do not receive timely feedback (or any feedback) and that the service provided by the human resources (HR) office is often below their expectations.

We have noted that agencies need to treat applicants like customers and build relationships with them. This relationship is important not only to influence that one applicant's impression of the Government, but also because that one applicant will then have positive things to say about the experience to others. We have found that word-of-mouth is a key way many Federal new hires have learned of an employment opportunity with the Government. In addition, negative impressions of the Federal hiring process can generate negative word-of-mouth among potential applicants that could dissuade high-quality candidates from applying.

There are several actions agencies can take to improve their communication with applicants. To start, the agency should have an understandable hiring process that is clearly explained in the job announcement. The instructions should include a timetable letting applicants know what steps are in the process, who takes these steps, and how long each step is likely to take. This will help to manage applicants' expectations. As I mentioned in my testimony, the job announcement is an area that needs improvement. Currently, announcements are often unclear and contain jargon that non-Federal employees just do not understand. Also, the agency should have a point of contact listed in the job announcement for applicants who have questions. Often, they do not, and applicants therefore do not know how to get their questions answered.

Agencies should, at a minimum, notify applicants that their applications were received. This type of notification should be a standard part of most automated application systems. However, communication should not stop there. Because the Federal

hiring process is typically longer than that of the private sector—especially for jobs requiring security clearances—agencies should communicate both electronically and personally with applicants throughout the process. Applicants should be periodically notified of the status of their application, when they should expect the next step to occur, or to even explain why the process may be taking longer than expected. If applicants are kept well-informed, they will be more likely to stay with the process than if their application falls into a presumed “black hole.”

Finally, agencies need to look at their hiring process to ensure that it is as timely as possible and does not contain unnecessary steps and bottlenecks. Because of their missions, some agencies may be able to keep applicants engaged in the process for a long period of time. However, a large segment of applicants, especially those with highly sought after skills, will not wait months for a job offer, regardless of communication efforts. Ultimately, having an efficient, effective process is important. As a result of evaluating the hiring process, many agencies may be surprised to see that many of the obstacles to timely hiring are self-imposed. Fortunately, this means they have the power to improve the process and minimize these delays.

Mr. ORTIZ. What role should the Office of Personnel Management play in the hiring process? Should it reclaim its original role as the main hiring authority for the federal government?

Dr. CRUM. In 1996, the Office of Personnel Management (OPM) delegated most competitive examining authorities to agencies. As a result, each agency is permitted to establish delegated examining units to carry out its hiring process. Prior to delegated examining, agencies had many complaints about the hiring process, including that it was too long, it did not address their individual mission needs, and they were not getting the best applicants.

This decentralized management approach has both advantages and disadvantages. On the one hand, agency delegated examining units will generally be more knowledgeable of the agency’s mission and the skill requirements necessary to carry out that mission than a third party hiring organization would be. This knowledge gives them a better understanding of how to attract members of the targeted applicant pool and makes it easier to tailor recruitment and hiring strategies to better meet the agency’s mission.

On the other hand, decentralization often results in the Government losing the ability to achieve economies of scale in terms of hiring tools and systematic approaches. Competition can increase among agencies and provide advantages to those with more resources and leadership support. Agencies often use different application and hiring procedures, and this creates confusion and burden among applicants who simply want a government job. All of these factors can affect the merit principles and the ability of individual agencies to hire high-quality applicants.

Hiring reform is needed in the Federal Government, but going back to a centralized system is not the most likely answer. OPM is no longer resourced to implement a centralized hiring system again, and agencies’ needs are too diverse to recommend employing a single hiring authority. OPM’s role should be to provide leadership to agencies regarding how to hire within the parameters set by the merit system principles and in identifying areas where agencies need to come together to achieve economies of scale.

OPM has already made progress in this regard. It works regularly with the Chief Human Capital Officers Council to identify human capital problems and pilot potential solutions. It has worked with agencies to improve USAJOBS and the way agencies market their jobs on the Web site. It established first the 45-day hiring model and most recently the End-to-End hiring process to streamline hiring and cut out unnecessary steps.

There are still, however, areas that need work. The Government currently does not have a standard application or application process. This can create excessive burden for an applicant who wishes to apply for multiple positions. Additionally, many agencies do not have the means to develop and use the best tools to assess applicant qualifications. We have recommended that OPM receive appropriated funding for centralized development and validation of assessment tools, particularly for government-wide and “at-risk” occupations. We have also recommended that OPM lead the hiring reform process by working with agencies to develop a government-wide framework for Federal hiring reform that provides agencies the flexibility necessary to address mission needs while also preserving selection quality and employee and applicant protections.

Mr. ORTIZ. Federal managers complain that the pay pool panel, which can overturn ratings recommended by managers, usurps the role of managers. If the majority of employees are going to be rated a “3” in the end, many managers wonder why they should spend the time in doing performance assessments.

If the majority of employees are rated a “3”, and managers eventually give up trying to fairly assess their employees since the pay pool panel will overturn their recommendations, how does this ultimately differ from the complaints of the simple pass/fail performance rating systems under the GS system?

Mr. PERKINSON. Thank you for the opportunity to address this important question, Mr. Chairman. The reality in the field is that the ratings have resulted in a bell curve distribution with most employees receiving “3” ratings. The underlying cause of this is the role of the pay pool panel. In my oral testimony, I sought to provide a brief synopsis of how the pay pool panels were stepping out of their intended role by readjusting supervisors’ ratings. This is directly tied to the resulting share value. The ratings distributed play a significant role in the share value, which concerns many of our members. The final payout results in large part on how a facility maximizes its share value. Our members take issue when those rated 3s at one location receive a significantly different payout than the 3s in another location. The ultimate difference between the GS and NSPS systems is that GS employees, in most cases, receive automatic pay increases, and in a properly run NSPS location, individuals have the ability to be rewarded for higher performance as the NSPS system personalizes the employee’s evaluation through its process.

Under the system, most employees will likely receive 3s, due to both human nature and the pay pool influence. However, exceptional employees are rewarded better under NSPS than under the GS. Conversely, under-performing employees are not rewarded under NSPS, but still receive a pay raise under GS, negating any incentive to perform better. The biggest difference is that NSPS forces managers to make meaningful distinctions in performance.

Mr. ORTIZ. Pay for performance is highly touted within the private sector. Yet, with human nature, it can be ripe for abuse. For example, there could be instances where a poor performer, because he or she happens to get along well with managers, is promoted. A high-performing individual who happens to have had a disagreement with management could be stymied in promotion or performance pay opportunities. And there are many other variations on these examples. The GS schedule, based on performance and tenure, is aimed at ensuring fair treatment and pay for federal employees.

What internal safeguards should be implemented to ensure reasonable transparency and appropriate accountability in connection with the results of the performance management process?

Mr. PERKINSON. If NSPS is going to continue to serve as the Pentagon’s personnel system, a couple of safeguards come to mind to improve transparency and accountability. The first is the ability of the rating official to share his/her rating with the employee prior to going to the pay pool panel for review. Presently, we encourage the supervisor and employee to openly set objectives and execute an interim review, followed by a written assessment. Despite this constant contact between the employee and manager, the rating official still cannot tell the employee his/her result. If the rating gets changed at the pay pool level there should be some form of communication to explain the changes—aka, transparency. If a rating or payout gets lowered, there should be safeguards in the system to explain what happened to cause the change.

The second safeguard we suggest is that the pay pool panel limit its role to ensuring the rating official has stayed within the framework of the process and conducted the review as written. The Panels are too focused on the impact they have on the share value. The sole purpose of the Pay Pool Panel should be to ensure fairness, transparency and consistency exist in the system by overseeing managers, not changing ratings.

An additional safeguard to address the employee who faces issues of disagreement or personality clashes is utilization of the reconsideration or appeal process. This option is under-utilized, despite what some claim. When I hear complaints about ratings and pay raises from FMA members, I always ask if they requested reconsideration. Most say no. These cases are isolated and it is extremely difficult to put rules in place to address all potential problems. We believe this will become easier over time, as more cases are heard.

No system is going to operate perfectly one hundred percent of the time, in the public or private sector. It is our job as managers and your job as legislators to ensure the system is as fair and transparent as possible.

Mr. ORTIZ. In a 2008 testimony before the Senate Homeland Security and Government Affairs Committee, FMA raised concerns about the “so-called bell curve distribution of ratings.” Specifically, managers and supervisors reported extreme pressure from higher-ups to maintain a specified distribution of funds or performance ratings within each pay pool. Managers were also told that there would not be enough money in the pool if all employees were rated 4s or 5s. Higher ratings mean

less money per share in the pool, while lower ratings mean bigger shares for the performing employees. There is severe danger of ratings being deflated or inflated to accommodate a small section of the population.

What can be done to ensure that meaningful distinctions in employee performance are being made?

Mr. PERKINSON. This issue directly deals with the topic of share value and the ability of each facility to devise business rules that impact that value. There is a distinct lack of concrete business rules, and even when rules are in place, they tend to differ among facilities. Part of the problem with share value centers on whether there has been any suggested or implied rules that could impact the ratings. If there is an abundance of high ratings the share value is deflated; a greater number of lower ratings inflate the share value. The result could be that a "3" in one location receives a higher payout than the same rated employee at another location. When examined across an agency like DOD, this simply does not make sense and provides the foundation for forced distribution and quotas.

We need to make adjustments to NSPS so there will be a quick review of the results by the pay pool panel to ensure share values are consistent. One way of accomplishing this is to release a standard set of business rules that apply DOD-wide. We should also ensure that senior officials do not impact ratings by implying their desires or results during the assessment period.

Mr. ORTIZ. The performance management system for NSPS consists of five rating categories, of which the lowest rating is a "1" (unacceptable performance) and the highest rating is a "5" (role model performance). The majority of employees in 2008 and 2009 were rated a "3," or valued performer. The GAO reported in 2008 that during its discussion groups with civilian employees under NSPS, a prevalent theme was that it was impossible to receive a rating higher or lower than a "3."

What should be done to address these employee concerns?

Mr. PERKINSON. Leadership must come from the top if issues such as these are to be prevented. We are hearing reports of managers experiencing what you describe, which DOD NSPS officials contend should not be occurring. More needs to be done on the part of national leadership to ensure this does not happen and enforce penalties when it does.

The baseline evaluation of a valued performer requires that the individual meets the criteria established for their job consistently throughout the year. For a rating to be above 3, additional expectations must be met to elevate the person to those levels. Again, part of the issue is that the system appears to be applied in a variety of ways that could be considered very subjective and inconsistent. Some facilities validated increases based on the written self-assessment, which led to complaints that the process was judged on writing ability. In the view of the employee, there is no clear cut way to know whether you are attaining higher levels of performance outside of the conversations with the rating official.

Increasing transparency by informing the employee of their initial rating and providing explanations of adjustments made by the pay pool panel could alleviate many concerns. Again it comes back to the establishment and consistent application of core elements throughout the process in all activities.

QUESTIONS SUBMITTED BY MR. FORBES

Mr. FORBES. Why does the pay pool have the authority to change an employee's rating given by the employee's supervisor who is the one with the first-hand knowledge of the employee's performance?

Mr. BUNN. The National Security Personnel System (NSPS) pay pool panels ensure that all supervisors within a pay pool are applying rating criteria in the same manner for each employee across the pay pool. Without the authority to change a recommended rating given by the employee's supervisor, the pay pool panel would be unable to mitigate differences in application of the criteria. This would result in "high" and "low" raters and ultimately inequity in payouts.

The NSPS pay pool process is an integral and integrated part of the performance management cycle and ensures that performance decisions are made in a careful, deliberative environment that uses a consistent approach to decisions regarding performance ratings and shares that drive employee performance payouts. Pay pool panels are comprised of senior leaders and management officials, normally in positions of line authority, who possess knowledge of the organization's mission and the employees included in the pay pool membership.

The performance rating process begins with the employee's opportunity to provide a self-assessment. The rating official then provides a recommended rating that is reviewed by a higher level reviewer. The recommended rating includes the rating

official's recommendation as to ratings, share assignments, and distribution of performance payout. The recommended ratings are reviewed by higher level reviewers and by the pay pool panel to ensure consistency and fairness across the pay pool. Larger pay pools may also have recommended ratings reviewed by sub-pay pool panels. Ratings are reviewed by higher level reviewers and pay pool panels against performance indicators and benchmark standards. The performance indicators and benchmark standards are published in the Department of Defense (DoD) implementing issuance, DoD Manual 1400.25, Subchapter 1940, and are included in performance management training given to employees and supervisors. In instances where the panel does not agree with the rating official's recommendation, the rating official is given an opportunity to present additional information to the panel that the rating official believes clarifies or justifies his or her recommendation(s). The pay pool manager is given final authority to approve ratings of records as a means of reinforcing equity across and within pay pools and as a necessary safeguard when applying standard benchmark criteria for all employees. All decisions of the pay pool manager are accomplished in accordance with merit system principles. Ultimately, the employee's rating is based on his or her performance against standard benchmark criteria.

Mr. FORBES. The Pay Pool managers most often know nothing about the employee's actual performance. Since Pay Pools are funded based on a percentage of the total base salaries of employees in the pay pool, doesn't that put some employees at a disadvantage?

Mr. BUNN. The National Security Personnel System (NSPS) has many safeguards built into the system specifically designed to ensure fairness and equity as well as to mitigate any consequences, which may arise as a result of unfamiliarity of the pay pool panel or manager with the work of an individual employee. Among the safeguards is the opportunity for the employee to provide a written self-assessment and the mandatory requirement for the rating official to provide a written assessment explaining how an employee met a particular job objective. In addition, the rating official provides a recommended rating of record based on application of standard performance measurement criteria. To ensure that the measurement tools are interpreted consistently across the organization and in a manner free from favoritism, cronyism, or other inappropriate consideration, multiple-level reviews of recommended ratings, share assignments, and payout distribution determinations are embedded in the performance management process. These include review by a higher level official and the pay pool panel. In instances where the pay pool panel finds that the rating official's recommendation does not reflect the same interpretation of the performance measurement criteria as applied by other rating officials and that the common interpretation would result in a different rating, share assignment, or payout distribution, the rating official is given an opportunity to present additional information to the panel that the rating official believes clarifies or justifies his or her recommendation(s). In this way, the pay pool panel is able to ascertain whether an adjustment proposed to ensure consistent application of performance criteria throughout the pay pool is justified or if the adjustment is based on a misunderstanding of the record. This process is designed to ensure equity in application of performance criteria across a pay pool as well as to incorporate the knowledge of rating officials who often have the closest view of the employee's performance.

Pay pool managers add to the process an umbrella view of the organization and familiarity of the organization's mission and/or the functional specialty of the employees. This knowledge, paired with the interaction with the rating official, enables the pay pool manager and pay pool panel, who are typically senior line managers in the organization, to effectively accomplish their role of managing the pay pool, resolving discrepancies, ensuring consistency and equity within the pay pool, and approving the employee's rating of record, share assignment, and payout distribution based on recommendations from the rating official.

Mr. FORBES. How fair is a Request for Reconsideration Process of a Performance Rating that does not allow an employee to challenge a performance payout, number of performance shares assigned, value of performance shares, or distribution of payout between increase to base salary and bonus?

Mr. BUNN. The National Security Personnel System (NSPS) was designed to ensure fairness and equity in evaluating and rewarding performance. Appropriately, in the event that an employee requests a reconsideration of their overall rating of record or of an individual job objective rating, only performance-related criteria are considered in making decisions on reconsideration requests. From its inception, NSPS was designed to emphasize both performance pay as well as compensating employees based on market factors. Factors considered in the determination of assignment of shares and payout distributions include a combination of factors other

than performance, such as labor market conditions and compensation/pay progression management. Pay decisions based on these factors are not usually subject to review. However, any reconsideration request that results in a change to an individual job objective rating or the rating of record may result in a change in share assignment. For example, if an employee's overall rating of record is raised to the next level, the corresponding (and higher) share range must be used resulting in a higher performance payout for the employee. The pay pool manager will recalculate the employee's performance payout amount and distribution, and salary adjustments will be based on the share range appropriate for the adjusted rating of record. The payouts of other employees in the pay pool are not affected or recalculated.

Mr. FORBES. How many employees under NSPS actually took part in writing their Job Objectives?

Mr. BUNN. The Department does not have statistics to verify the number of employees who participated in the development of their job objectives. However, the National Security Personnel System (NSPS) is designed to ensure that performance expectations (job objectives) support and align with the organization's mission and goals, and has implemented safeguards to ensure against the imposition of impossible performance expectations. Such safeguards include requiring supervisors to involve employees, where feasible, in the development of their job objectives to ensure a clear understanding of performance expectations, subjecting job objectives to higher level review to ensure consistency and fairness within and across the organization, and communicating job objectives to employees in writing prior to holding them accountable for performance of the objectives. Participation of employees in development of job objectives is not mandatory as it is recognized that in cases where a large number of employees perform the same type of work, the use of standard job objectives may diminish the involvement of employees in the development of job objectives and situations such as newness of an employee to a position may not enable meaningful participation by the employee.

To facilitate the development of job objectives by both employees and supervisors, NSPS provides classroom instruction, web-based training, and a 2-hour workshop to assist employees in preparing well-written job objectives and assessments. Our learning materials feature exercises and activities to gain insight into how to develop effective job objectives that align with the organization's goals. Employees gain practice writing objectives and understanding the importance of tracking and monitoring their performance throughout the performance cycle. The performance management system's emphasis on communication also encourages an employee's active involvement and input throughout all phases of the performance management cycle. Through writing their job objectives, monitoring their performance, and providing their self-assessment, employees are encouraged to share their insights and perspectives about what they do and how it supports the mission.

Mr. FORBES. Why are the ratings of the employees; specifically names, not made public if the idea of NSPS is to motivate all employees to be model employees?

Mr. BUNN. The Privacy Act governs the dissemination of certain employee personal information. Government-wide regulations at title 5, Code of Federal Regulations (CFR) implement the Privacy Act as it relates to employees' performance information in the Official Personnel Folders. Performance ratings are not made available to the public, which would include an employee's coworkers in accordance with 5 CFR 293.311(a)(6).

The National Security Personnel System (NSPS) employees are given information that allows them to understand how they are rated. Performance criteria are made public and are shared with employees. The standards by which employees' job performance is assessed (the performance indicators and the benchmark standards) are published in Department of Defense (DoD) Manual 1400.25, Subchapter 1940 (DoD 1400.25M, SC 1940). The performance indicators are established at level 3 and level 5 performance by pay schedule and pay band. In addition, the benchmark standards for evaluating the contributing factors that relate to how the job is performed are also listed in DoD 1400.25M, SC1940. Employees are trained on how to use the performance indicators and benchmark standards in completing their self-assessments.

While individual employee ratings are not and cannot be provided to other employees, aggregate pay pool results are required to be communicated to employees. This enables employees to compare their results with the overall results within their workforce. At a minimum, employees are informed of the average rating, ratings distribution, share value (or average share value), and average payout expressed as a percentage of base salary at the completion of the performance payout process.

Providing information and training concerning the use of the performance indicators and benchmark standards, and the overall pay pool results should provide any needed additional motivation employees need to perform at their highest level.

Mr. FORBES. Why are NSPS employees not given the full amount of the Cost of Living Allowance (COLA) or Government-wide Pay Increase (GPI)?

Mr. BUNN. While it is commonly believed that the General Schedule (GS) GPI is a COLA, the GS GPI actually reflects the cost of labor rather than a cost of living adjustment. The Federal Employees Pay Comparability Act of 1990 provided two types of annual salary adjustments: an across-the-board increase to the entire GS based on the Employment Cost Index (ECI); and, a locality pay increase to the entire GS, in a particular locality area, based on the salaries of non-Federal employees working in that area. The ECI portion is based on an annual comparison of ECI changes as measured by the Bureau of Labor Statistics (BLS). However the BLS comparison measures the "cost of labor or wages" as opposed to the "cost of living." Ultimately, the purpose of the GS increase is to ensure competitiveness with the private sector, versus offsetting increases in the cost of living.

The National Security Personnel System (NSPS) regulations require the maximum rate of the pay band to be raised by 100 percent of the NSPS general salary increase. There is no requirement to raise the minimum of the band. However, the regulations also provide that if the adjustment of the minimum rate of the pay band causes the base salary of an employee with a rating of record above unacceptable to fall below the minimum rate, the employee's salary will be set at the pay band minimum rate. Consistent with title 5, United States Code (U.S.C.), Section 9902(e)(7), the regulations require that NSPS employees who have a current rating above unacceptable will receive a base salary increase of no less than 60 percent of the general salary increase and a local market supplement increase equal to GS locality-based payments under title 5, U.S.C., Sections 5304 and 5304a. Section 9902(e)(7) of title 5 and the regulations also require that the remaining portion of the GS salary increase will be included in pay pool funding for the purpose of increasing rates of pay based on employee performance and contributions during the rating cycle. Under the current regulations, employees with a final rating of Valued Performer (Level 3) or higher for the current appraisal period are also eligible to receive a performance-based payout for that cycle.

NSPS is a pay-for-performance system, and progression through the pay band is based on duties, responsibilities, and performance; whereas, progression through the grades under the GS is based primarily on longevity. Notwithstanding, there are links between compensation under NSPS and the GS. By law, the overall amount allocated for compensation of civilian employees in NSPS can be no less than if the employees had remained covered by the GS, and that amount is available only for such compensation.

Mr. FORBES. The purpose of a COLA and/or GPI is to keep up with inflation, not a reward for superior performance. If NSPS is truly a "Pay for Performance" system, why did DOD and Navy implement a top pay range in the pay band which cannot be exceeded? Once you reach that top range, no matter how good of an employee or how hard you work, you only get 60% every year.

Mr. BUNN. As explained in the answer to the previous question, the annual government-wide General Schedule (GS) Government-wide Pay Increase (GPI) represents a cost of labor calculation, not a cost of living adjustment. The maximum of all the National Security Personnel System (NSPS) pay ranges are increased by 100 percent of the General Schedule Base Salary Increase (GSI) to ensure employees are eligible to receive the full NSPS general salary increase based on performance. While employees must receive at least 60 percent of the GSI as an across-the-board pay increase if they have above unacceptable performance, the balance must be paid out as a base salary increase based on employee performance. This enables the Department of Defense to pay the most competitive salaries to its highest performing employees.

While pay-for-performance is an integral part of NSPS, it is not the only factor in the compensation system. NSPS is also a system that is sensitive to market factors in determining an appropriate pay level for positions. The GS establishes somewhat narrow pay ranges (grade levels) according to the type and complexity of the work being performed. NSPS has several pay schedules and pay bands within these schedules. Some of the pay bands are pretty broad. Not every type of job in certain pay schedules should have salary progression to the top of the band. Control points allow for managers to set pay in accordance with the value of the work performed. Employees will continue to receive appropriate compensation based on their individual performance, if not in base salary increases then in performance bonuses or a combination of both.

Mr. FORBES. The purpose of NSPS was to allow employees that exceeded work expectations to have greater earning potential, but now the government has put caps within each pay band. Why does the DOD not show the breakdown of the payouts

by race, sex, age, disability, and then by grade level? Isn't NSPS supposed to be a transparent system?

Mr. BUNN. Control points may be established within a pay band to manage compensation by considering and balancing a variety of factors, in addition to performance, in the determination of rates of pay and salary progression through a pay band. Factors include mission requirements, labor market conditions, and benchmarks against duties, responsibilities, competencies, qualifications, and performance. Control points represent one tool that can be used to manage employees' progression through the bands and help ensure that only the highest performers move to the upper range of a pay band. Control points also allow management to account for variances in position responsibilities within a pay band. This allows the Department to set pay more consistently with the labor market and to be more effective in attracting and retaining top performers.

Control points also provide management with the latitude needed to positively impact a variety of pay decisions, such as starting rates, rate ranges, and the mix of performance payouts between bonus and salary increase. Control points manage pay progression to reflect duties and responsibilities, labor markets, and/or performance. The Department of Defense (DoD) requires that control points be applied consistently to similar positions in the same pay band and career group within a pay pool. Unlike the General Schedule (GS) employee who reaches the step 10 of his or her GS grade, a National Security Personnel System (NSPS) employee who reaches a control point is guaranteed a share of the pay pool and any amount in excess of the control point (or the top of the pay band, if applicable) is paid as a bonus provided the employee has a level 3 or higher rating of record.

Overall performance payout results are published on the NSPS website after completion of the pay pool process. However, the data available at the DoD level do not provide the granularity to make meaningful distinctions or provide the capability to draw conclusions from these high level data. DoD Components are required to conduct an annual analysis of the NSPS performance rating and payout results for their subordinate activities to identify, examine, and remove barriers to similar rating and payout potential for demographic and other groups in the workforce, apart from differences based on individual performance or material job difference.

In addition, to promote transparency of the pay pool process, DoD Components are required to share with NSPS employees at the completion of the performance payout process the average rating, ratings distribution, share value (or average share value), and average payout expressed as a percentage of base salary.

Mr. FORBES. Why didn't DOD concur with the GAO recommendation regarding the third party reviews of pre-decisional pay pool recommendations?

Mr. BUNN. The National Security Personnel System (NSPS) pay pool process provides essential safeguards to ensure that the system adheres to merit principles, and that ratings and management of the system are fair, equitable, and based on employee performance. Individual ratings recommended by a supervisor are reviewed by a higher level official and by at least one panel of management officials from across the organization to ensure consistency and fairness across the pay pool. Rating officials, reviewers, and panel members apply standard, NSPS-wide performance indicators and benchmarks when they consider employees' performance assessments. Employees are encouraged to provide written self-assessments about their performance accomplishments, which help ensure panels have a complete picture; and an employee who disagrees with his or her rating has several avenues of redress.

While we have no objection to demographic and other analyses for pay pools, we do not believe integrating such analyses as part of the pre-decisional pay pool deliberation process is warranted; and, in fact, they may have detrimental effects on the credibility of the system.

We agree that such analyses can be used to ensure that the process is fair and equitable, and to identify and address possible barriers that may affect some groups, but believe it should be done after the process is complete. Such analysis must not be used to manipulate results to achieve some type of parity among various groups. Post-decisional analysis of results is useful to identify barriers and corrective actions. If the information gleaned from demographic analysis demonstrates that the results were not fair or equitable, for whatever reason, this information could legitimately be employed to examine the process used to achieve those results, with a view to identifying barriers to equal employment opportunity, if any, and eliminating them in order to achieve a more fair and equitable outcome. And, if an analysis of pay pool results uncovers illegal discrimination, management always has the ability and obligation to take corrective action.

Heads of the Department of Defense Components are accountable for the manner in which officials in their organizations carry out policy, procedures, and guidance.

The Department requires in its NSPS implementing issuances that Component Heads carry out an annual analysis of the NSPS performance rating and payout results for subordinate elements; and issue guidance to lower echelons and otherwise act to identify, examine, and remove barriers to similar rating and payout potential for demographic and other groups in the workforce, apart from differences based on individual performance or material job differences.

Mr. FORBES. COLA's and Housing Allowances could be lumped into a pay pool and the top performers could get the higher raises. It would eliminate the automatic time-in-grade raises, just like for civil service. Why hasn't the DOD done a DOD-wide survey of all employees under NSPS to see what the people in the system think of it? They would probably find that the majority of the employees are not in favor and that it has only put more of a burden on those in supervisory positions.

Mr. BUNN. By statute, the National Security Personnel System (NSPS) cannot modify Cost of Living Allowances and housing allowances, or lump them into a pay pool for any purpose.

The Department surveys its civilian population in general on employment matters every year by means of the Status of Forces Survey of the Department of Defense (DoD) Civilian Employees (SOFS-C). The SOFS-C is administered not only to our NSPS population but also to the rest of the civilian workforce. Views from the NSPS workforce are mixed. The first year after converting, employees' surveyed opinions on some aspects of NSPS are lower than their baseline opinions from their previous system; for example, whether they understand what it takes to be rated at the different levels and whether the performance management system improves organizational performance. At the same time, the NSPS workforce reports a more positive view that management deals with poor performers and that pay raises depend on how well employees perform their jobs. NSPS supervisors have become more positive that they can influence employees' pay. While employees' opinions that their ratings fairly reflected their performance compared to their pre-NSPS baselines, the majority still hold a positive view; and after a second rating cycle, the first spiral group opinions rose somewhat from the first year. Supervisors are somewhat ambivalent: in the 2008 survey, many were neutral about whether pay-for-performance at their organization was a fair reflection of their employees' performance, but of the rest, there were many more positive views than negative.

The decline and the ambivalence are common with most new systems, as the Office of Personnel Management has observed and the Government Accountability Office has acknowledged. NSPS is a fundamental change from their previous experience with those systems and with the predictable General Schedule step progression pay system and guaranteed annual increases regardless of performance. We are mindful that half of the NSPS workforce converted from pass-fail performance systems, and most of the rest came from multi-level rating systems where most people got the top rating. We therefore augment surveys with field visits and interviews with employee, supervisor, and management groups to find out what is working adequately and what is of concern and may require further action. Many do express concern about the time the NSPS performance system takes, especially for supervisors with large non-supervisory workloads of their own. We have improved automated tools to reduce their administrative burden, and they are no longer building performance plans from scratch but may copy and paste an applicable objective from the performance plan of one rating period to another.

We expect this issue, along with many others, to be included in the scope of the comprehensive program review.

Mr. FORBES. What evidence exists that can show NSPS has had a marked improvement in development of the employee/supervisor relationship through the coaching/feedback that is supposed to be such a big part of NSPS? This should be a question if a survey is conducted; Do you believe your communication with your supervisor has improved under NSPS?

Mr. BUNN. The Department surveys the workforce to monitor relationships between employees and their supervisors, among other matters; but we do not expect quick, marked improvements. The National Security Personnel System (NSPS) is still in an early stage: the great majority of the workforce has either one or two years under the system. NSPS is fundamentally different from the prior systems. Change from familiar, predictable systems to performance-based pay progression in a less hierarchical pay band structure is daunting. The fact that NSPS uses a senior management pay pool panel process to ensure there is a level playing field across the organization in ratings and payouts alters the traditional rating relationship between an employee and his/her immediate supervisor. The Office of Personnel Management advises that it takes 3-5 years for people's attitudes to recover from early declines and meet or exceed the baseline level. Representatives from the Government Accountability Office have testified it takes 5-7 years for such changes.

Our surveys indicate that the employee/supervisor relationship has held up during the first two years after NSPS implementation. Employees' trust and confidence in their supervisors have held level, as has their feeling that their supervisors do a good job. Looking at a basic supervisory responsibility—communicating what it takes to be rated at different levels—we found that employees' agreement that they understood this had declined somewhat from their pre-NSPS baseline, but the majority, 57 percent, of Spiral 1 were positive. Interestingly, the relationship between an employee and his/her supervisor—forged by many things apart from formalities of the personnel system—seems to go hand-in-hand with employees' opinion of whether their appraisal is fair. Of the 67 percent of Spiral 1 employees who agreed in the 2008 survey that they had trust and confidence in their supervisors, 71 percent agreed that their performance appraisal was a fair reflection of their performance, compared with 25 percent agreement for the 16 percent of employees who did not have trust and confidence in their supervisors.

Asked if discussions with their supervisor or team leader were worthwhile, NSPS employees gave similar positive views in the 2008 survey to those not in NSPS—despite a slight decrease from pre-NSPS baselines. Further, somewhat more NSPS employees than non-NSPS ones report they receive occasional or regular performance feedback; and those in NSPS for one or two years had similarly positive views about the usefulness of the counseling as those not in NSPS.

Mr. FORBES. Does a pay pool have the authority to change the stated goals for a particular rating at the end of the year so fewer people exceed the Level 3 rating?

Mr. BUNN. No. Performance expectations must be communicated in writing to an employee before the employee is held accountable for those objectives (title 5, Code of Federal Regulations, section 9901.406(b)), and employee performance is measured against standard criteria that are published. Job objectives for the National Security Personnel System employees may not be changed after the end of a rating cycle to limit the number of employees with ratings above level three. While supervisors may change employees' job objectives *during* a rating cycle to reflect changes in duties, mission, and/or priorities, they cannot hold the employee accountable for the revised performance expectation/job objective until it has been communicated to the employee in writing. This requirement safeguards against an employee being held accountable retroactively for any job objective for any reason.

Mr. FORBES. Where are the Merit System Principles in NSPS?

Mr. BUNN. The National Security Personnel System (NSPS) statute at title 5, United States Code, section 9902(b)(3) addresses the merit system principles and prohibited personnel practices. In addition, the statute provides at § 9902(b)(7)(A) that the performance management system must incorporate adherence to merit system principles. The enabling regulations at title 5, Code of Federal Regulations (CFR), section 9901.101(b) state that the merit system principles are among the guiding principles for establishing the requirements for the implementation of the NSPS human resources system. The regulations also state at 5 CFR § 9901.342(b) and (f)(2) that oversight of pay pools must be established in such a way as to ensure employees are treated fairly and consistently and in accordance with merit system principles. At 5 CFR § 9901.412(g), the regulations state that “[c]onsistent with the merit system principles and this part, the Pay Pool Manager is the approving authority for Pay Pool Panel recommendations concerning ratings of record, share assignments and payout distributions.” The merit system principles, while not explicitly listed, are embedded in all aspects in the NSPS human resources system. The supplementary information for the regulations published on September 26, 2008 (73 Federal Register (FR) 56344) makes numerous references to the merit system principles. For example, the adherence to merit system principles support the fairness of the pay pool process (73 FR 56350), that the system is evaluated to determine whether it complies with merit system principles (73 FR 56359), and that the classification system supports the merit system principles (73 FR 56359).

The merit system principles are an integral part of NSPS training and communication. In virtually all NSPS briefings and training sessions, participants are advised that NSPS does not change or alter merit system principles. In all performance management training, the participants are reminded that performance evaluation must conform to the merit system principles, and participants are given a handout that lists the merit system principles.

Mr. FORBES. How much has NSPS cost the taxpayers since its implementation?

Mr. BUNN. To date, the National Security Personnel System (NSPS) implementation costs across the Department are approximately \$230 million. This includes expenditures for the following:

Design and Implementation (efforts including those conducted by Component and local activities related to the planning, tailoring, and adapting of NSPS Implementing Issuances)

- Regulation, implementing issuances, conforming policy, and technical reference material development
- Continuing collaboration with unions
- Working group activities for implementation planning, scheduling, and monitoring
- Communications materials
- Lessons learned meetings, conferences, and reports

Training Development, Support, and Execution

- Courseware design and development; and component and local adaptations
- Course materials production
- Course delivery

Human Resource (HR) Automated Systems

- Requirements definition of NSPS-driven modifications to Component HR systems
- Design, development, coding, and testing of modifications
- Local system modifications

Program Evaluation (development of metrics, data collection, survey tools, analysis, and reporting to assess the effectiveness of NSPS regulations and implementation)

- Survey design and administration
- Data analysis and reporting

Program Office Operations (efforts conducted by Program Executive Office (PEO), Component program offices, and locally established NSPS activities)

- Rent and supplies, equipment, networks, and telecommunications (applies to PEO NSPS only)
- Personnel appointed to coordinate NSPS implementation at local level

Detailed employees will be included in Component reporting under this category.

Mr. FORBES. What specifically is there in NSPS that was not available under the GS system as far as bonuses, raises, performance awards, etc.?

Mr. BUNN. The National Security Personnel System (NSPS) is designed to promote a performance culture in which performance and contributions are more fully recognized and rewarded based on performance, innovation, and results. NSPS makes distinctions among employees based on a rigorous evaluation of individual performance against standard criteria to ensure that the highest rating levels, and associated performance payouts, are reserved for those who deliver exceptional results. This performance management system differs from the General Schedule (GS) process of longevity-based pay increases that are linked primarily to the passage of time. NSPS better links individual pay to performance using performance rather than time-on-the-job to determine pay increases. It also provides employees with greater opportunities for career growth and mobility within the Department.

The NSPS pay and classification system provides a flexible pay-banding construct that helps attract skilled and talented workers, and retain and appropriately reward current employees. This pay-banding structure replaced the artificial limitations created by the GS pay and classification systems. Using broad pay bands, the Department is able to move employees more freely across a range of work opportunities without being bound by narrowly described work definitions. Unlike the GS system, NSPS employees may receive reassignment base salary increases of up to 5 percent. When NSPS employees are promoted to a higher-level pay band, the flexibility exists to set pay at a level that provides at least a 6 percent pay increase and a more significant base salary increase of up to 12 percent or more if management determines that a greater increase is appropriate. For example, a 10 percent increase may be justified when an employee is promoted from an entry or developmental band to a full performance band and the greater increase is necessary to pay the employee a rate that is competitive in the labor market, given the employee's responsibilities, competencies, and anticipated performance. Under the GS system, management must follow standard pay setting procedures, which provide no flexibility or discretion when setting pay.

There is considerably more room for pay progression within an NSPS band than within a GS grade. NSPS employees may move more easily within their assigned band, or other comparable bands. Additionally, unlike the GS employee who reaches step 10 of his or her GS grade, an employee with a level 3 or higher rating of record is guaranteed a share of the pay pool, and any amount of the performance-based

payout in excess of a control point within the band or the top of the pay band is paid out as a bonus.

The NSPS pay structure is more responsive to market conditions than the GS. The Department is able to adjust rate ranges and local market supplements based on variations relating to specific occupations, rather than using a one-size-fits-all approach. Labor market conditions also are considered when making pay-setting decisions.

Mr. FORBES. Based on the GAO testimony, one safeguard GAO believes needs to be implemented to increase employee confidence in the pay for performance system is for DOD to have a third party analyze the pay-pool recommendations for “anomalies” before any final decision is made to determine whether an employee’s rating accurately reflects the employee’s performance and whether any non-merit based factors contributed to the “anomaly.”

1. Explain how you see this third party analysis working.

Ms. FARRELL. Given that each agency has its own set of unique challenges and its own approach for handling those challenges, we believe that the department is in the best position to determine how to appropriately design and implement a predecisional analysis for NSPS. That said, we believe that the third-party analysis should be conducted by an independent reviewing office, such as a human capital office, that is able to conduct the analysis outside of the chain of command. Taking the analysis outside of the chain of command helps to ensure that the process remains as independent as possible. Seeing that DOD currently has over 200,000 civilian employees under NSPS, the department could consider phasing in the third-party analysis by starting with a representative sample of employees. A phased implementation approach recognizes that different components of agencies will often have different levels of readiness and different capabilities to implement new authorities. Moreover, a phased approach allows for learning so that appropriate adjustments and midcourse corrections can be made before new policies and procedures are fully implemented organizationwide.

Mr. FORBES. 2. In your view, who would the third party be, a DOD entity or a non-DOD entity?

Ms. FARRELL. As noted in our response to question 1, we would expect the third party to be a DOD entity that is removed from the chain of command—that is, the human capital office or an office of opportunity and inclusiveness.

Mr. FORBES. 3. What criteria does GAO see as constituting an anomaly?

Ms. FARRELL. Generally, an anomaly would be characterized as a set of ratings for which there is a statistically significant difference in comparison to the larger group. For example, if the data indicated that there was a statistically significant difference between the ratings of a particular subset of the larger workforce compared to the larger group at that same level, this could constitute an anomaly. The presence of an anomaly is not alone proof that there is a problem. Rather, identifying an anomaly in the data prior to finalizing the rating decisions would enable management to investigate the situation and determine whether the results are justified and merit-based.

Mr. FORBES. 4. In investigating “blatant discrimination” or “egregious decisions” would the employee be contacted and interviewed?

Ms. FARRELL. The predecisional reviews are to help achieve consistency in the performance management process and provide reasonable assurance that the performance decisions are merit-based and fair. Due to the nature of the investigation, the employee would not be contacted during an investigation. However, information provided by employees, such as the self-assessment, can be considered during the review process, as could information provided by responsible managers regarding underlying reasons for any anomalies.

Mr. FORBES. 5. Would a single third party be evaluating all 1,600 pay pools across DOD to get a DOD wide view of anomalies, or would 1,600 third-party reviews be conducted at each pay pool without regard for a comprehensive DOD look?

Ms. FARRELL. As noted in our response to question 1, each agency has its own set of unique challenges and its own approach for handling those challenges. As a result, we feel that the department is in the best position to determine how to appropriately design and implement a predecisional analysis for NSPS. One approach, as noted in our response to question 1, would be for DOD to phase in the third party analysis by starting with a representative sample of employees. Such an approach recognizes that different levels of readiness and different capabilities exist among agency components and allows for learning so that appropriate adjustments and midcourse corrections can be made before full implementation.

Mr. FORBES. 6. What effect would the third-party analyses have on the timeliness of the pay-pool process?

Ms. FARRELL. It would likely add time to the existing process. However, we believe that it is important that DOD take steps to ensure that its employees' ratings are perceived as fair reflections of their performance. Taking additional time to complete a predecisional analysis is one safeguard that DOD can implement to raise employee confidence in the fairness and credibility of the system.

Mr. FORBES. 7. Would the pay pool decisions on all the other employees in the pay pool be held up until the "anomaly" was resolved?

Ms. FARRELL. Given that the predecisional review is intended to take place prior to the ratings being finalized but before they are certified and released to employees, all other ratings would not be released until the predecisional review was completed and appropriate responses (which could include inaction) were determined for any anomalies identified.

Mr. FORBES. 8. How would GAO see the anomaly being corrected—a directive to the rater to change the rating, or some disciplinary action against the rater, or some other form of corrective action?

Ms. FARRELL. Where managers provide information that explains the merit-based factors and reasons for the anomalies, the managers would not change the ratings. On the other hand, managers could determine that some vital information was not considered that would provide a basis for changing the rating. In all cases, it is the unit manager, not the third party conducting the predecisional review, that would determine whether a change would be warranted. Further, the review is not intended to change the results to portray an "ideal" distribution, or to alter the outcome of the performance management process. The purpose of the predecisional review is to identify if anomalies exist and, if found, inform managers of the need for further review to provide reasonable assurance that the basis for each rating is fair, credible, and merit-based.

Mr. FORBES. 9. Does GAO see any appeal rights for the manager or employee involved in the "anomaly"?

Ms. FARRELL. Although the third-party reviewer identifies the anomalies, it is the responsible manager that examines the basis underlying the ratings and is held accountable for ensuring the ratings are merit based. While it is unlikely, should a manager be disciplined, he or she might have appeal rights, depending on the nature of the discipline imposed.

Any employee has a right to appeal his or her final rating. However, these appeal rights do not apply to the predecisional review process since it is intended to take place prior to the ratings being finalized but before they are certified and released to employees.

Mr. FORBES. Would you comment on the GAO recommendation about having a third party pre-decisional review of pay-pool ratings?

Mr. PERKINSON. Thank you for the opportunity to address your questions, Congressman Forbes. The addition of this process could alleviate some transparency concerns raised about NSPS, but it could just as likely further cloud the system. We must ask ourselves what happens if the decision of the third party is different from that of the pay pool panel. Is this third party the final say? If so, how involved is it in the process? We have said that one of the problems with the pay pool panel is that it is out of touch with the actual job functions of the employees it is reviewing. The third party should be held to the same standards.

Mr. FORBES. Do support the recommendation? Why or Why not?

Mr. PERKINSON. If the pay pool panels were to act in a manner consistent with the authorities laid out in their directive—primarily concerning itself with ensuring the system is applied fairly and transparently—a third party review would be unnecessary. However, if the panels continue to overstep their bounds, adjusting the ratings employees receive from their rating officials, then I believe a third-party review is justified.

Mr. FORBES. In your testimony you indicated that, as a manager, if you had a choice, you would prefer going back to the General Schedule System. The answer seemed to be couched in the context of the difficulties managers have in dealing with three personnel systems: NSPS, GS and Wage Grade. Is your desire to go back to the GS system a statement that the GS system is superior to the NSPS system, or is your preference for the GS system an expression that as a manager you prefer to work with fewer personnel systems?

Mr. PERKINSON. That was a very difficult question for me to answer. I remind you that in your question you asked what I would do today. In reality there are things I like about NSPS and things I like about GS.

The NSPS process allows you to improve performance and pinpoint areas of improvement for your personnel in specific areas. It also allows us to award performance in a way that is unavailable under the GS system. Under the General Schedule, there are also tools to deal with extraordinary performance and poor perform-

ance. The QSI (Quality Step Increase) is a valuable tool to reward performance, but budgets limit the extent we can distribute them. An unsatisfactory evaluation prevents a GS employee from getting an automatic step increase in pay. However, these options are rarely utilized.

My particular answer to you was in response to the difficulties with managing three separate systems in one department. As personnel work side-by-side, it is difficult to explain why the NSPS folks averaged one pay increase, the GS received something different and the Wage Grade averaged another amount. Along with that, each system is governed by a different set of rules regarding workplace practices, such as overtime, and this is complicated for a manager and confusing for employees. They want to know why they are treated differently than their peers.

Congress and the Administration should work with managerial and employee groups to establish one system that can uphold the principles of objectivity, fairness and transparency.

