

# EMPOWERING MANAGERS: IDEAS FOR A MORE EFFECTIVE FEDERAL WORKFORCE

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## HEARING

BEFORE THE

SUBCOMMITTEE ON  
REGULATORY AFFAIRS AND FEDERAL  
MANAGEMENT

OF THE

COMMITTEE ON  
HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE

ONE HUNDRED FIFTEENTH CONGRESS

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## **EMPOWERING MANAGERS: IDEAS FOR A MORE EFFECTIVE FEDERAL WORKFORCE**

**THURSDAY, FEBRUARY 9, 2017**

U.S. SENATE,  
SUBCOMMITTEE ON REGULATORY,  
AFFAIRS AND FEDERAL MANAGEMENT,  
OF THE COMMITTEE ON HOMELAND SECURITY  
AND GOVERNMENTAL AFFAIRS,  
*Washington, DC.*

The Subcommittee met, pursuant to notice, at 10:05 a.m., in room SD-342, Dirksen Senate Office Building, Hon. James Lankford, Chairman of the Subcommittee, presiding.

Present: Senators Lankford, Portman, Heitkamp, Carper, Hassan, and Harris.

### **OPENING STATEMENT OF SENATOR LANKFORD**

Senator LANKFORD. Good morning and welcome. Today's Subcommittee hearing is entitled "Empowering Managers: Ideas for a More Effective Federal Workforce." In the 115th Congress, this Subcommittee will work to find consensus solutions to the broadly recognized challenges which prevent the Federal workforce from effectively serving the American people.

Federal agencies employ some of the best and brightest individuals this country has to offer. Every day Federal civil servants help protect our communities, provide essential care for our veterans, keep our airports running safely and smoothly, and our military running extremely effectively. We are grateful for their diligence, and we are interested in their ideas and concerns.

I acknowledge that many citizens and Federal employees themselves recognize that the important work of our Federal employees is often obstructed by a culture that rewards attendance over initiative, a culture that does not differentiate between poor performers and those who excel. In fact, it is the high-performing Federal workers who often complain that their underperforming counterparts harm workplace morale, drive down agency objectives, and raise concerns that compensation is not appropriately related to one's job performance.

For instance, the Office of Personnel Management's (OPM) 2016 Federal Employee Viewpoint Survey (FEVS) found that a mere 22 percent of employees agreed with this statement: Pay raises depend on how well employees perform their jobs.

While the government fails to appropriately compensate employees based on their performance, managers and agency executives face additional challenges. Specifically, Federal managers are frus-

trated by an extremely complicated and time-consuming hiring process, something this Committee has talked about often.

In 2016, it took an average of 100 days to fill an open position in the Federal Government. In 2015, it took 90 days. The problem is getting worse. Many highly qualified applicants cannot wait over 3 months to start work. Managers need employees to start work promptly to achieve their agencies' mission and, may I add, managers need to hire appropriately to make sure that we are hiring the right people in the right spot.

Whenever there is an ongoing structural problem within the system, it is our responsibility and our duty to address it. The civil service structure as we know it today was created in the 1950s as a result of the Hoover Commission. The last time Congress accomplished significant governmentwide reform was in the Civil Service Reform Act (CSRA) of 1978. No successful business operates an employment model from the 1950s, and no effective workplace runs on a system that was last updated in the 1970s.

Through authorities granted by Congress, the President can implement governmentwide policies to improve the functioning of the entire Federal workforce. On January 23, 2017, the President issued a memorandum for the heads of executive departments and agencies establishing a hiring freeze until the incoming Director of the Office of Management and Budget (OMB) recommends a long-term plan to reduce the size of the Federal Government's workforce through attrition. President Trump's hiring freeze is a similar memorandum issued by past Presidents. For instance, in 1977 President Carter and in 1981 President Reagan issued broad hiring freezes for executive agencies.

As the Chief Executive of the Federal Government, President Trump is responding to widespread frustration voiced by the American people with their government, but not necessarily with individual employees. Attrition through a hiring freeze may not be the optimal solution for creating an efficient and effective Federal workforce. But in the absence of any notable legislative reforms to improve the Federal workforce, the administration has every right to alter the status quo through an executive action. Congress can either watch as the administration deals with the Federal workforce through executive actions, or it can find consensus and work with the administration and take up the mantle of substantive legislative reform.

To do this, this Subcommittee plans to have a series of hearings to discuss a broad number of topics, including hiring, training, compensation, performance management, discipline, and separation, and we will invite a wide variety of viewpoints. In today's hearing, we will start with the perspective of Federal managers as we look to tackle some of these challenges. It is extremely important to hear from the managers and senior executives who confront these issues on a daily basis. As experienced managers and executives, our witnesses today will be able to provide unique perspectives on the difficulties they face within the civil service as managers and shine a light on potential bipartisan improvements. Even if we may differ on some of the answers, we may still see some of the same challenges. I hope my colleagues will join me in this pursuit, and

I am confident they will. This is not a partisan issue. This is a non-partisan issue.

I am interested to work with every stakeholder to ensure Congress develops comprehensive reforms to set the Federal workforce and to continue to protect great employees in our Federal workforce and to make sure they continue to have good due process. I look forward to discussing with all of our witnesses today, and I am very grateful. I will introduce all of them in just a moment after our Ranking Member, Heidi Heitkamp, has her opening remarks.

#### **OPENING STATEMENT OF SENATOR HEITKAMP**

Senator HEITKAMP. Thank you, Mr. Chairman, and thanks to my colleagues. Not always the sexiest of topics, public employment, but absolutely critical if we are going to do the best that we can for the people of this country.

I think while it is inevitable we are going to discuss today the challenges of the hiring process, I think it is important to highlight that we are having this discussion against a backdrop of the current hiring freeze in the Federal Government. When the public sector in North Dakota cannot do its job, the private sector has a more difficult time doing its job, from making sure the food we eat is safe to answering taxpayers' inquiries about tax law, to ensuring our veterans are cared for, to protecting our Nation from harm, Federal employees in my State work every day to make my State and, in fact, the country better. When we fail to fill needed vacancies unnecessarily, the only people we are hurting are ourselves. And I want to tell a quick story.

During the huge boom of oil development in North Dakota, we had a very difficult time recruiting Federal workers, engineers, into the agencies that help provide permitting. It was so bad, in fact, that the industry offered up resources to hire and to expand the pay of the current Federal employees. I think it was eye-opening for many of us who for years might say that the Federal employees are a drag on the economy to realize that the oil industry in my State could not function without a fully staffed Federal Bureau of Land Management (BLM).

So across-the-board cuts and the shrinking of the overall Federal workforce are not the answer to making the Federal Government more efficient or more effective. These cuts will also come at the expense of talent, morale, and the mission of our workforce, none of which we can afford to lose.

Managers play a vital role in the culture of an agency and are responsible for giving employees the tools they need to succeed and thrive in the workplace. While today's hearing, of course, is not focused on the hiring freeze, it is important to keep in mind how a freeze directly and indirectly impacts the ability of managers and employees to do their jobs effectively and keep morale high.

I am looking forward to examining how we can help managers use the tools that are available to them more efficiently as well as how we can improve supervisor training. I will be doing all that I can to protect Federal workers, and I think it is important that we are in continued communication with the administration regarding how they plan to implement initiatives going forward.

We have been at this table before, the two of us, talking about the aging of the Federal workforce, talking about recruiting the best and brightest Americans to a job and a career in public service. We have been here talking about what managers' tools we need. These are all great challenges in moving our country forward and making our government responsive to the needs of the people. We cannot take a step backward.

And so, Mr. Chairman, I am grateful for our attention in this Congress to the Federal workforce. I hope that we will be able to see innovations that will lead to better outcomes for public employees, for public managers, and as a result, better outcomes for the people of our country.

Thank you.

Senator LANKFORD. Thank you.

At this time let me proceed with the testimony from our witnesses and then swearing in our witnesses. Let me introduce all four of them first.

Renee Johnson is the national president for the Federal Managers Association (FMA), an organization she has served in various capacities since 2009. She currently is the U.S. Navy customer engagement branch head at Fleet Readiness Center East in Cherry Point, North Carolina.

Bill Valdez is the president of the Senior Executives Association (SEA). He is a former co-chair of the National Science and Technology Council's Science of Science Policy Interagency Working Group from 2005 to 2014. He retired from Federal service as a career senior executive in 2014 after 20 years of service in the Department of Energy.

Robert Corsi is the former Assistant Deputy Chief of Staff for Manpower, Personnel & Services for the U.S. Air Force. Prior to his 18 years of civilian service at the Senior Executive Service (SES), he served for 28 years on active duty in the U.S. Air Force. He retired from Federal service in October 2016.

David Cox, who is the veteran in our group—he has been here before; we appreciate you coming back again—is the national president of the American Federation of Government Employees (AFGE). He worked for the Department of Veterans Affairs (VA) from 1983 to 2006, when he became the secretary-treasurer of AFGE.

To all four of you, we appreciate very much for you being here. We appreciate all of your written testimony that you have already submitted. It is very thorough and excellent, and that will, of course, go into the permanent record.

It is the custom of this Subcommittee that we swear in all witnesses before they testify, so if you do not mind, would you please stand and raise your right hand? Do you swear that the testimony you are about to give before this Subcommittee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Ms. JOHNSON. I do.

Mr. VALDEZ. I do.

Mr. CORSI. I do.

Mr. COX. I do.

Senator LANKFORD. Thank you. You may be seated.



Let the record reflect all the witnesses answered in the affirmative.

We use a timing clock here, which will be a 5-minute countdown for your testimony time. Ms. Johnson, you will go first in that time period. If you would just turn your microphone on, we would be glad to be able to receive your testimony.

**TESTIMONY OF RENEE M. JOHNSON,<sup>1</sup> NATIONAL PRESIDENT,  
FEDERAL MANAGERS ASSOCIATION**

Ms. JOHNSON. Thank you, Chairman Lankford, Ranking Member Heitkamp, and Members of the Subcommittee. I appreciate your allowing me to present the views of the Federal Managers Association before you today.

I am currently employed at Fleet Readiness Center East in North Carolina as customer engagement branch head. I am here today as the national president of FMA on my own time representing my active and retired members, and I do not speak on behalf of the Navy. FMA's mission is to advocate excellence in public service, so we are honored to appear today to discuss ways to empower managers as we seek a more efficient and effective Federal Government.

In my written testimony, I addressed a number of issues related to recruitment, hiring, performance management, termination, and other topics. As FMA's national president, I hear how proud our members are to serve our Nation. I am pleased to note FMA has chapters in both Tinker Air Force Base and McAlester Army Ammunition Plant in Oklahoma, providing resources for national security. We also have members ensuring Americans receive their Social Security checks, collecting taxes to fund public safety measures, and protecting the Nation's food supply, to name just a few of the critical functions provided by Federal employees.

To begin, FMA members often describe the current hiring process as too cumbersome and time-consuming. The most recent defense authorization bills lend support for direct hire authority, and FMA sees this as a potential avenue to allow managers to expedite the hiring process.

FMA also seeks to allow for salary adjustments to compete for new wage grade hires. The Federal Government makes significant investments in these employees, and often they leave for the private sector before they even finish a year of service. Managers should have options to adjust hiring packages to reflect the unique circumstances in their areas.

While FMA is opposed to the current hiring freeze instituted by the new administration, we are more concerned with the potential proposals for hiring in the long term, specifically blind attrition policies. All Federal agencies should be allowed to match hiring actions that align with their congressionally mandated missions and funding.

Regarding performance management, FMA supports a system that provides incentives such as pay for performance. Departments and agencies must have maximum flexibility as we compete with

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<sup>1</sup> The prepared statement of Ms. Johnson appears in the Appendix on page 39.

the private sector to attract the best and the brightest workforce to answer the call of public service.

Managers must be able to address both misconduct and poor performance. Currently, many managers feel it is easier to keep poor performers and deal with their subpar performance rather than take steps to document and convince the agency of removal. All employees, including managers, should be held accountable for executing their duties and responsibilities. At the same time, FMA adamantly opposes efforts to reduce or eliminate due process for Federal employees.

First-level supervisors and managers need access to adequately funded training programs. Investments must be made in training to assist managers to recognize problems early and deal with them at the lowest possible level.

FMA calls for the reintroduction of legislation that requires agencies to provide supervisors with interactive, instructor-based training on management topics ranging from mentorship, career development, and conducting accurate performance appraisals to hostile work environments and poor performers. Training should take place within one year of promotion, with ongoing training every 3 years thereafter.

Initial and supervisory probationary periods are intended to be an extension of the hiring process. It is a time to evaluate the employee or manager and determine whether they are suited not just for their current position but for Federal service in general.

Some career fields are so complex that it takes more than one year to properly train an entry-level employee. In the 2015 defense authorization bill, Congress extended the probationary period for all employees at the Department of Defense (DOD) to 2 years. Extending the probationary period at other Federal agencies would benefit both the government and the employees by allowing supervisors to make decisions based on the employee's performance as fully trained employees, not just guess how the employee will perform after the training is complete.

I commend the Subcommittee for holding this hearing early in Congress to discuss how to best equip those of us charged in management with managing the Federal workforce and to ensure we are equipped to meet the agencies' goals.

Thank you again for affording Federal Managers Association the opportunity to express our organization's views. I am eager to answer any questions you may have.

Senator LANKFORD. Thank you. Mr. Valdez.

#### **TESTIMONY OF BILL VALDEZ,<sup>1</sup> PRESIDENT, SENIOR EXECUTIVES ASSOCIATION**

Mr. VALDEZ. Chairman Lankford, Ranking Member Heitkamp, and Members of the Subcommittee, thank you for the opportunity to testify before the Subcommittee today. The Senior Executives Association and our members are eager to work with you and the new administration to develop common-sense solutions to the challenges that we know confront the civil service.

<sup>1</sup> The prepared statement of Mr. Valdez appears in the Appendix on page 49.

The 7,200 career senior executives play a vital role when implementing positive change in the government. Utilizing their depth of experience and knowledge will be critical as we develop the common-sense solutions we all know are required. My written testimony discusses many of those possible solutions, and I am ready to provide more information or answer any questions you might have.

I would like to focus my remarks today on several broad issues that will help inform that discussion, namely, the answer to three questions.

First, are Federal leaders currently empowered to effectively manage the Federal workforce?

Second, what are the constraints on empowerment?

And, third, what are the most impactful solutions that we should pursue?

The answer to the first question, sadly, is no. There are two root causes for this lack of empowerment:

First, the complexity of workforce management processes and rules makes it extremely difficult for Federal leaders to be sufficiently empowered. Navigating the maze of human resources (H.R.) rules and regulations while also focusing on the primary objective of a Federal leader fulfilling their agency's mission is a difficult task for even the most adept Federal leader.

Second, Federal leaders lack the tools they require to effectively manage their workforce when achieving 21st Century missions. Corporate America correctly recognizes that it needs to know the composition of its workforce, the best places to hire talent, and how to use risk-reward frameworks to incentivize their workforces. In the Federal Government, the tools that would enable Federal leaders to do the same are not available.

This leads to the discussion on constraints on empowerment. I would put them into three baskets.

The first basket is the complexity of Federal workforce management. Anyone, including Federal leaders, would be overwhelmed by rules and regulations that are often seemingly contradictory. This was most apparent in the hiring process, which forces a leader to make compromises that can often result in the best qualified candidates not being chosen.

The second basket is the many routes of appeal or forum shopping for employees contesting a particular personnel action. The threat of an Inspector General (IG) or an Equal Employment Opportunity (EEO) complaint or a union grievance can stop a leader cold when dealing with poor performance. Accountability is difficult to impose on a workforce that has so many avenues of appeal at their disposal.

By the way, my experience is that forum shopping occurs whether we are talking about a GS-2 or an SES.

The third basket is an absence of a functioning risk-reward framework. Leaders should encourage their workforce to take measured risk when executing programs that advance an agency's mission and then should reward those employees appropriately. Instead, risk is devalued, and reward such as raises and bonuses are tied to tenure and general performance. This discourages innovation and rewards average performance.

My top three recommendations are tied to these constraints.

First, please help us by reducing the complexity of workforce rules and regulations, particularly on hiring. We make several recommendations in my written testimony.

Second, let us figure out a way to simplify employee appeals of an adverse personnel action. We are fully supportive of EEO, IG, whistleblower, and union grievance processes and believe they have their appropriate place in the Federal workforce framework. But a separate process for the resolution of personnel performance issues must be developed.

Finally, we desperately need a new risk-reward framework particularly tied to annual performance reviews. Federal leaders want to reward high performers and distinguish high performance from the routine delivery of services by an employee. Not everyone deserves to be promoted or get a bonus. It should be earned and recognized.

I would like to conclude by thanking the Subcommittee for holding today's hearing. The Senior Executives Association and our members are deeply grateful for your thought leadership on this issue, and we look forward to working with you to restore the notion of a civil service that is regarded as world-class and worthy of the public trust that has been given to it. Every day, as you noted, Mr. Chairman, millions of Federal employees are doing amazing things on behalf of the American taxpayer—managing public lands, defending the homeland, protecting the environment, and helping to build in an innovation economy, to name just a few. You should take great satisfaction in knowing that the work this Subcommittee is doing will help all Federal employees and leaders accomplish their vital missions more effectively and efficiently.

Senator LANKFORD. Thank you, Mr. Valdez. Mr. Corsi.

**TESTIMONY OF ROBERT E. CORSI, JR.,<sup>1</sup> FORMER ASSISTANT DEPUTY CHIEF OF STAFF FOR MANPOWER, PERSONNEL & SERVICES, UNITED STATES AIR FORCE**

Mr. CORSI. Thank you, Chairman Lankford, Ranking Member Heitkamp, and Members of the Subcommittee, for the opportunity to share my experiences of over 46 years in the Air Force in both my military capacity and as a member of the Senior Executive Service to assist the Committee in finding ways to improve the management of the Federal workforce. In both my roles, I have had the distinct honor of working with some of the most professional, dedicated, and incredibly humble career civilians. Whatever reforms you are contemplating need to recognize the importance of our career civilian workforce in providing that necessary continuity during periods of high leadership turnover and that we, above all, hold them in high regard.

My comments, oral and written, will literally address most aspects of managing the civilian workforce. I would be the first to say that the civilian system needs major rework. The system has evolved over many years but fundamentally has not changed since its inception. What has changed is a very dynamic budget environment, a workforce that is unjustifiably held in disregard, and pres-

<sup>1</sup>The prepared statement of Mr. Corsi appears in the Appendix on page 66.

asures to reduce the workforce without knowing the true work requirements.

Managers are consumed on a daily basis with budget uncertainty, dealing with a 90-year-old pay system that rewards longevity, archaic hiring practices that do not allow agencies to compete on a level playing field with the private sector, the lack of ability to develop and shape their workforces, and grievance and complaint processes that drag on for years.

On any given day, we have approximately 2.1 million Federal employees on board, excluding postal, which equates to approximately \$210 billion per year using an average of about \$100,000 per person. For the most part, there has never been an analytic foundation to support the level of Federal employees. To its credit, the DOD has a requirements-driven process with manpower professionals to determine both its military and civilian levels.

Most Federal agencies do not have that same rigor and are ill-prepared to defend their manpower levels. Most agency heads are blind to their true manpower requirements, and most have no centralized accounting for their manpower and skill levels at every level in their organizations.

Fiscal pressures demand that agencies need to justify the size of their workforce. This will require Congress to insist that workforce levels are requirements-based, that agency heads can defend their manpower levels, and that authoritative documents support those levels.

But Congress must also help with timely budgets and consider giving agencies a planning target for personnel levels for an additional 2 years to allow managers to make more informed decisions. For over 90 years, we have had the General Schedule (GS) pay system. Locality pay, special pay authorities, expanding the workforces under non-GS pay demonstration projects, and longevity, not performance-based increases, all make a compelling case to eliminate the General Schedule pay system. The time is now to export the lessons learned from pay demonstration projects and to move forward with a pay-for-performance system.

There are significant challenges with managing the Federal workforce. There are no requirements for agencies to have human capital strategic plans with the proper analytics to guide current and future force shaping. Managers are mired in a hiring process that significantly limits their ability to compete with the private sector. And, there are limited tools in hiring authority for agency heads to attract and retain the best talent. Congress can help by directing OPM to: one, ensure that all agencies have viable human capital strategic plans; two, give agency heads all decision authorities to use direct hires to meet their critical skill needs; three, ensure that all agencies have the authority to shape their workforces without OPM approval; and four, require every agency to have a formal civilian training and development program.

Congress can also help by providing dedicated and, importantly, fenced training monies in the agency budgets. Any changes that will give agency heads more authority to manage their workforce and to empower them with the proper tools will pay great dividends in giving managers more time to be managers.

I applaud the Committee for taking on this challenge. I offer my service to do whatever I can to help the Committee bring real positive change to the Federal workforce. Our country and our Federal employees deserve no less.

I look forward to your questions.

Senator LANKFORD. Thank you. Mr. Cox.

**TESTIMONY OF J. DAVID COX, SR.,<sup>1</sup> NATIONAL PRESIDENT,  
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES,  
AFL-CIO**

Mr. COX. Mr. Chairman, Ranking Member Heitkamp, and Members of the Subcommittee, thank you for the opportunity to testify today.

One of the most useful ways to frame policy questions that aim to address real or perceived problems is to ask what is needed: new laws or more effective enforcement of existing laws. On the question of whether current laws give Federal managers adequate authority to manage the Federal workforce or whether the new laws are needed to expand their authority, the answer is clear: No new laws are needed.

America has the very best civil service in the world. This is something we should all be proud of and should celebrate. Virtually all studies of Federal employee performance find that the vast majority perform well. It is just a small percentage, probably less than one percent, that are problem employees. Yet the focus is so frequently on that minority rather than on the 99-plus percent who are doing a great job every day caring for the American people.

Since the late 19th Century, our Federal civil service has been a professional, apolitical civil service. Today we call it a “merit-based” system, and it is no overstatement to say it is a cornerstone of our democracy. It ensures that technical expertise is what matters in obtaining and keeping a Federal job, not allegiance to any political party or person.

All of us benefit from a professional civil service. Veterans at the Fargo VA Medical Center need to be sure their doctors and nurses are highly qualified for their jobs. Mechanics at Tinker Air Force Base need to know avionics, not politics. The American public deserves Border Patrol agents and Social Security claims reps and the National Institute of Health (NIH) researchers hired because of their skills, not their connections.

While agency career employees remain accountable to politically appointed officials, our merit-based system makes sure that actions against career employees for misconduct or poor performance require evidence to back up allegations and due process, including third-party review by neutral decisionmakers.

When an employee receives notice of an adverse action, be it a suspension, demotion, or termination, the body that hears any appeal is called the Merit System Protection Board (MSPB). Note, that is a body focused on the protection of merit system, not the employee. And the MSPB is not only fast and efficient, it upholds agency management decisions in 80 to 90 percent of the cases.

<sup>1</sup> The prepared statement of Mr. Cox appears in the Appendix on page 76.

There is a popular perception that it is too hard to fire a Federal employee. The Government Accountability Office (GAOs) careful study, which I describe in my written statement, points out that these are cases of management failure. When managements are either unwilling or otherwise fail to use the already substantial tools available to them, the answer is not to weaken the merit system by reducing due process. The answer is to train and support and discipline managers so that they do their part to uphold and protect the merit system.

Please, let us not throw out the baby with the bath water just to indulge Federal managers who will not or cannot do their jobs. History is full of examples of public service corrupted by politically based employment decisions. That is the reason we urge you to reject calls to weaken the merit-based civil service. Federal hiring and firing must remain merit-based and subject to third-party review.

Performance management improvements such as the New Beginnings approach recently undertaken in DOD are always welcomed, and we look forward to working with our lawmakers and agency managers to make this new program a success. We also support better training of both supervisors and employees so that clear expectations are established, performance metrics are clear, appropriate steps are taken to either fix performance problems or remove the small number of poor performers in the workforce.

This concludes my statement, and I look forward to answering and talking about any questions with the Committee.

Senator LANKFORD. Mr. Cox, thank you very much.

Senator Heitkamp and I have a tradition that we defer our questions to the end, so with that, based on the order of attendance here at the gavel, I would recognize Senator Carper for questions.

Senator HEITKAMP. Senator Harris was here first.

Senator LANKFORD. Senator Harris was here first? I would be glad to be able to do that. She got here before the gavel, but at the gavel you are the senior member that was here. Senator Harris, are you OK to go step up?

Senator HARRIS. I am.

Senator LANKFORD. You got it.

#### **OPENING STATEMENT OF SENATOR CARPER**

Senator CARPER. Harry Truman used to say that the only thing new in the world is the history we forgot or never learned. The names of Voinovich and Akaka remain as firm in my mind. As my colleagues know, I call my former colleagues on their birthday. I just talked to Danny Akaka last month. And I wish I could have called George Voinovich, but as you will recall, he passed away last year. But they spent an enormous amount of time in this room in the last decade dealing with many of these same issues. And I thank our witnesses today, we thank you for being here today. We thank you for your testimony. And we thank you for your service.

I want those of you who may recall the efforts of Senators Akaka and Voinovich and their staff over several years, recall their efforts, talk to us about what they focused on, what was accomplished, and maybe where they fell short and what we need to do

today as a result. And, Mr. Cox, you are pretty young, so you may not remember these guys.

Mr. COX. I am old now.

Senator CARPER. But just in case, why don't we start with you?

Mr. COX. Things that certainly I believe we need to do is—

Senator CARPER. Again, what I am looking for is what was accomplished under their leadership and maybe where did they fall short and that we need to take action.

Mr. COX. I saw a great concern from both of those leaders to have Federal employee managers particularly trained. Where do I believe we fell short—and I think some of my colleagues would agree with me, particularly my brother right here—that agencies do not fence off money for manager training. We have had short budgets so, therefore, training takes a back seat over and over.

I have found in my career the best technician becomes the manager, but then that does not necessarily give them management skills. The agency needs to spend time helping that person to become a manager, giving them training, mentoring them so that they can encourage, develop employees, manage good performers, and recognize the good performers, and also take appropriate proper actions on poor performers.

I want to say it very openly from AFGE. We do not want bad employees working for the Federal Government.

Senator CARPER. OK. You can hold it right there. That is a good place to hold it. Thank you for those comments. Mr. Corsi.

Mr. CORSI. Sir, I would just echo Mr. Cox.

Senator CARPER. You do not have to agree with him.

Mr. CORSI. We had raving fans back years ago for the Federal workforce, and the emphasis was on developing the Federal workforce.

Senator CARPER. Again, what was my question? My question, I want you to walk us back to what George Voinovich and Danny Akaka worked on. They were very proud of what was accomplished during their period of time. And you have been in a leadership position for some time. I am sure you remember them. What did they accomplish? And what did they not accomplish that we need to focus on today? Please.

Mr. CORSI. I apologize. I cannot get into those specifics.

Senator CARPER. All right. Thank you. Mr. Valdez.

Mr. VALDEZ. In general, I think the focus on pay for performance and making the Federal agencies make Federal employees more accountable was an admirable move on the part of the two Senators. I do not think that they were fully successful and that the work of this Subcommittee could be focused on those two areas, with a high degree of success.

Senator CARPER. All right. Thank you. Ms. Johnson.

Ms. JOHNSON. Yes. Mr. Voinovich supported the agencies, demanded the resources that they need, I think was very important, something that needs to be supported with the budget requirements that are submitted from the agencies and should be supported by Congress whenever the budget is approved. Without having those resources in the agencies, it makes it very difficult for us to meet the mission demands of the agencies.



Senator CARPER. There was a long time ago a cartoon strip called “Pogo” that some of you will recall where Pogo was famously quoted as saying, “We have met the enemy, and it is us.” And I think we are, by virtue of not providing predictability and certainty with respect to budgets, relying on continuing resolutions (CR), stop and go, it is enormously expensive, it is enormously wasteful, as we were reminded by GAO, we will be reminded next week by GAO when they put out their high-risk list. But talk to us just very briefly—about—my time has expired, so I am not going to pursue this. But I will just say if you agree that that is a problem, say yes.

[Witnesses nodding heads yes.]

Thank you. All right. Thanks so much.

Senator LANKFORD. Senator Harris.

#### OPENING STATEMENT OF SENATOR HARRIS

Senator HARRIS. So it is my understanding that in the last couple of weeks, about 1,000 State Department employees signed on to the Dissent Channel to enable—to basically publicly note their disagreement with the Muslim ban Executive Order (EO). And following that, White House Press Secretary Sean Spicer said that those who disagree with the administration policy should, “Get with the program or they should go.”

Can each of you tell me your perspective on that statement and, in particular, what are the rights and the responsibilities of Federal employees to be able to freely dissent and point out whatever they believe is not in the best interest of the agency they work in or in the best interest of our country? And what are the protections that are available to them if they dissent? And I will start with you, Ms. Johnson.

Ms. JOHNSON. I feel like as a Federal employee we are there to support the mission of the agency and the intent of the duties that have been presented to us. Whenever we are presented with restrictions that make it difficult, I do feel like that we should be allowed to express those concerns. But it is also important that we still try to accomplish the mission with those restrictions as well. We cannot stop the mission because of the restrictions. We have to be able to overcome those and try to find ways of working around them.

Senator HARRIS. But do you agree with the importance of having the Dissent Channel and that ability for those employees in the State Department, using the example that I have offered, to be able to express their opinions?

Ms. JOHNSON. Yes, ma’am.

Senator HARRIS. Thank you. Mr. Valdez.

Mr. VALDEZ. First, yes, I wish every agency had a Dissent Channel. In my experience, different agencies would set up, employee suggestion boxes, and those were used in the same manner to provide dissent or, comments on existing administration actions.

Just as the going-in position, I think we should all understand that, all Federal employees swear an oath to the Constitution, to uphold the Constitution, and that they exercise those powers under the direction of the President of the United States. And if an employee feels, if a civil servant believes that what he or she is being

asked to do is unconstitutional, unethical, criminal, or against existing regulations, then, yes, they have an obligation to speak up within authorized channels within the agency to express those views. And you can do that through the IG, through the whistleblower process.

But it is not within the prerogative of Federal employees to not execute an order from the President that is constitutional, that is within regulations, and that is perceived by the administration to go to further the mission of the agency.

Senator HARRIS. But you agree that they should be able to express their dissent without fear of being fired?

Mr. VALDEZ. Within existing agency infrastructure and mechanisms.

Senator HARRIS. Are you aware of any Federal agency that prohibits an employee from expressing their dissent and, if they do, on pain of being fired?

Mr. VALDEZ. No.

Senator HARRIS. OK. Mr. Corsi?

Mr. CORSI. Senator, I do not know how to say it any better than Mr. Valdez. I mean, the State Department has a unique system in terms of being able to have that dissent network to get to the senior leaders in the State Department. Above all, day in and day out, the Federal employee is supposed to concentrate day in and day out on what their job is. We are supposed to not be political in anything that we do. And anything that would detract from that focus I would say is not productive. But, again, there are mechanisms in place to express concern with policies and procedures, and members know how to use those processes.

Senator HARRIS. Thank you. Mr. Cox.

Mr. COX. I believe all of our contracts that AFGE has with any agency says that employees have their First Amendment rights to voice their concerns and raise those issues, and certainly there are whistleblower protections. However, AFGE always tells its membership if they are being asked to do something, unless it is illegal, to obey and grieve, go through that mechanism. I would never encourage an employee to be insubordinate, but certainly as Federal employees, we still have First Amendment rights to agree or disagree and to be an apolitical workforce in that nature.

Senator HARRIS. Thank you.

Senator LANKFORD. Senator Hassan.

#### **OPENING STATEMENT OF SENATOR HASSAN**

Senator HASSAN. Thank you, Mr. Chair and Ranking Member. And good morning to our panel, and thank you all very much for your testimony and for your work and for the employees you represent and speak for.

I wanted to start, Mr. Corsi, to talk about budgeting predictability a little bit. In your testimony, you talk about budget predictability and its importance for management and government employment as an issue more broadly. I recently joined in introducing a bipartisan bill that would allow for biennial budgeting at the Federal level, which is one of the things we do in my home State of New Hampshire. And so I would love your thoughts about whether biennial budgeting would provide the kind of predictability

you are looking for as well as from a management and personnel angle what challenges would biennial budgeting pose for you.

Mr. CORSI. Senator, we tried biennial budgeting several years ago, and what I remember is the Congress was not willing to work that second year, which would have been wonderful because of the amount of time that is consumed in putting a budget together.

Senator HASSAN. Yes.

Mr. CORSI. You cannot manage a 2-million-person workforce, when you do not get your budget until 6 months into the fiscal year. And, then you are working on finalizing that next year's budget, and you do not even have a budget for the current year. Anything that we can do to put more predictability in the budget process, to give managers flexibility, and at least look into that next year would be helpful. In my testimony, I recommended actually 2 years out to give at least a planning level for the workforce so that managers can make decisions in the current year based on a known level in those other years.

A very good example is an agency that works to be very efficient, and they save manpower resources, only for that then to become the next line for reductions.

Senator HASSAN. Yes.

Mr. CORSI. You cannot have incentivized managers to look for efficiencies unless they have some predictability that they are going to have that workforce level in the future.

Senator HASSAN. My thinking, too, has been that if you do the biennial budget and you get the budget done, then you could use the second year to measure and assess and work with agencies in planning the next budget as opposed to just constantly being in this cycle.

I also had another question for you, Mr. Corsi. You recommend that OPM should require agencies to conduct retention and exit surveys, which strikes me as a very good idea. I am just curious about what is happening now.

Mr. CORSI. In the Air Force—and that is my data point, we are conducting both exit and retention surveys.

Senator HASSAN. Yes, right.

Mr. CORSI. We recognize the importance, because a lot of organizations do exit surveys. It is also very important to survey folks as to why you are staying with us. So we initiated that 2 years ago, and what you find is that one of the major reasons why people are leaving is leadership. Also one of the major reasons why people are staying with is leadership. So it really gets out to the point of training our managers, and, making sure that they are very competent. Making sure that we have mentoring programs that are targeting folks that, are the talent that we want to keep. And we have done that in the Air Force.

Senator HASSAN. OK. Thank you.

I have about a minute and a half left, and maybe I will ask just a general question for the four of you, if you can comment on it briefly. We obviously have moved into an age where data and technical literacy is important. We are recruiting people who are capable with data and technology that is particularly important, and good cybersecurity hygiene on behalf of all of our employees is really important.

In whatever way strikes you as best, can you just comment on that particular challenge, if you have any ideas about how we should be recruiting people who are good at improving our data literacy and cybersecurity?

Mr. COX. I think clearly you are going to have to be out at the best schools and universities offering competitive salaries, encouraging these folks to come, and also appropriating the money for the latest technology. OPM's computer system is almost as outdated as a Schwinn bicycle has become in this country.

Senator HASSAN. OK.

Mr. COX. So I think those are the issues.

Senator HASSAN. Thank you. Mr. Corsi.

Mr. CORSI. Senator, I would go beyond just the cyber side. We have so many of our technical specialties in the laboratory and the engineering side of the house. You have to give hiring managers direct hiring authority. They need to have the wherewithal to make on-the-spot job commitments to individuals out there in order to be able to compete with the private sector—cyber is kind of the focus right now.

Senator HASSAN. Right.

Mr. CORSI. It goes well beyond cyber. It is just giving managers direct hiring authority for the skills that they determine that they need.

Senator HASSAN. Thank you.

Mr. VALDEZ. I would agree completely with all of that, and I would just note that the Chairman pointed out that it takes 100 days to bring somebody on new, and that is the average.

Senator HASSAN. OK.

Mr. VALDEZ. And when you get into these highly technical fields, you find that it probably exceeds that average because of the difficulty of bringing them on. So we just need to have a top-to-bottom review of how agencies are allowed to hire people and provide them with the mechanisms that enable them to bring on the best and brightest.

Senator HASSAN. Thank you. Ms. Johnson.

Ms. JOHNSON. I certainly agree with Mr. Cox when he was speaking about the systems that we use within the Federal Government. I think updated systems for employees to work with would make it much easier to bring new employees on. Using systems that they have been trained on in the private sector as well as in school would benefit the government as a whole.

Senator HASSAN. Thank you, and I am sorry for going over my time.

Senator LANKFORD. You are fine, and just a reminder to all Members, we will do a second round of questioning, and our second round will be open without a clock. And so if there is interaction that we need to be able to have, you are welcome to stay on that.

I know Senator Carper could not stay based on his time requirements and wanted to be able to make a quick statement.

Senator CARPER. Yes, thank you so much. I just want to commend you and Senator Heitkamp for doing this, and picking up the legacy from Danny Akaka and George Voinovich, who worked on this in a bipartisan way is just hugely important.

Ted Kaufman was a Senator for 2 years. As some of you may recall, he became Delaware's Senator when Joe Biden stepped down to become Vice President, and he did a great job. One of the things that he focused on was actually going to the floor once a month and thanking different people within agencies, for the work that they did. And I took that idea in the last Congress and focused just on one department, and that is the Department of Homeland Security (DHS) that we have a lot of jurisdiction over, as you know. They had the worst morale of any major agency in the Federal Government, and we put together with the help of this Committee a terrific leadership team. That was hugely important. They had the top senior ranks at the Department of Homeland Security were basically like Swiss cheese, just so many vacancies there. But we also made it clear that we appreciated the work that they were doing on an individual basis and a collective basis. I would just mention that.

The other thing is—I have told this story before to my colleagues, but not to you folks. I listen to National Public Radio (NPR) coming in to catch a train in the morning from Delaware, and a couple years ago, they were reporting at the top of the news a story about what is it that people like about their work. It was an international survey. What do people like about their work? People like getting paid. People like having benefits. Some folks like the folks they work with, they like the place, the environment in which they work. Do you know what most people liked about their work? The fact that they knew what they were doing was important and they felt like they were making progress.

One of the requirements for us is to look at ourselves in the mirror and say what can we do on this side of the dais to make sure that the Federal employees are empowered to make that kind of progress.

Thank you. And thank you so much for your leadership.

Senator LANKFORD. Thank you.

A quick comment, and I am going to defer to Senator Heitkamp for questioning as well, and that is, Senator Hassan brought up biennial budgeting. You will find wide support for that on this dais and in many parts of the Senate. We have got to get a more predictable process on that, and biennial budgeting gets us there. That is by no means at a majority yet. We are working to be able to get to that majority and so we can actually get that moved.

Along with that, Senator Portman and I have worked for several years on something we call the Government Shutdown Prevention Act. It gets us to a point that we no longer have the cliffs and threats of shutdown, but it pushes Congress to be able to get the budget done, puts in the criteria that is needed to be able to accomplish that. It does not help us to have unpredictable budgeting and to have budget cliffs all the time. We have to be able to have some predictable system, but the right pressure points, and we hope to be able to get that accomplished in the days ahead. Senator Heitkamp.

Senator HEITKAMP. Thank you so much, Mr. Chairman, and I could not agree more. I think most of us who come from State entities where you do biennial budgeting, where you have more predict-

ability, find that to be a much more humane system and a much more predictable system.

I want to start out with you, Mr. Valdez. As you heard in my opening statement, I am concerned about the hiring freeze and the morale and the kind of disruption that that uncertainty creates within a workforce. And I know that in your testimony you have said you believe the hiring freeze will have a chilling effect on the ability of the Federal Government to attract and recruit the talent that it needs. As you can see from my opening statement, we had a situation where people saw what happens when you do not have people in Federal positions.

So I want to ask you: How does the freeze and the negative publicity surrounding that impact the agency's ability to meet its mission both here and in our States? And what message does a hiring freeze send to managers and employees about the value of their work, to Mr. Carper's point?

Mr. VALDEZ. Well, I think you have raised a number of issues, but in terms of the chilling effect—people like certainty in their employment, and that is what we are referring to. If you think that the Federal Government is not a place where you can find reasonable employment and have a secure job, then that does have a chilling effect, and particularly on individuals who are coming into the Federal Government.

Senator HEITKAMP. And I just want to make this point: that frequently the vacancies that we have would be highly sought after, where they would be highly technical, and so you have three people, now someone leaves, and those two know that there is no way they can fill that gap, they get frustrated, and now they are bearing the brunt, and they can find employment someplace else. It is a meat axe to something that we should be looking at very strategically, and I have a concern about what that means for highly sought after employees, and basically people seeing public service as a career.

Ms. Johnson, in addition to the immediate impact of the hiring freeze, I am also concerned about the long-term plan that was alluded to in the Executive Order. You have said that FMA steadfastly opposes any blind arbitrary plan to cut the Federal workforce. What do you think are the dangers of arbitrarily making these cuts to the Federal workforce? And what is the long-term impact of that pronouncement?

Ms. JOHNSON. Yes, ma'am. I look at the arbitrary cuts across the Federal Government as being detrimental to the mission of the agencies. As any company, there are areas that we can cut the budget and the personnel within those agencies. But to do a blanket, across-the-board cut of all Federal agencies I think is going to be detrimental to them being able to move forward with the mission that they have been provided and putting people in those positions that have to take on the duties of others as their counterparts leave, that puts additional pressure on them and impacts the morale of the agencies.

Senator HEITKAMP. And isn't it likely that those people who can leave, when they do, and it is hard to fill that position, that it is going to have a cascading effect?

Ms. JOHNSON. Oh, absolutely. It will impact them—

Senator HEITKAMP. Probably in those areas, whether it is cyber, where there is a whole lot of competition in the private sector for that kind of talent and skill set. But even, if I can say, if it takes 20 people in housekeeping to make up the beds and you only have 10, you will not stay in business very long as a hotel if you cannot hire to replace the people who are going to be making up the beds and cleaning the rooms. So maybe that is a context that can be appreciated in a different category.

I have to just back out just for a little bit here, and I will be back, so I will defer the rest of my time, albeit very small amounts, to the Chairman, and I will be returning.

Senator LANKFORD. That will leave me completely unsupervised in the hearing here as well. [Laughter.]

Senator HEITKAMP. There are cameras here.

Senator LANKFORD. Always accountability.

Let me run through several things, because there are quite a few issues that have come up. I do want to thank all four of you again for your written statements. They are very thorough, and they are also very practical, and that is very helpful to this Committee, because as we are trying to work through things, Mr. Cox, as you mentioned before, it may not be a legislative solution. It may be a training issue. And so the task of this Committee is not just forming new legislation; it is oversight for existing authorities. So I want to walk through a couple of things on that.

I mentioned in my opening statement the 100 days now on average that it takes to go through the hiring process, that it was 90 days last year, it is now 100. So this problem is accelerating when it needs to get better. We have had hearings on USAJobs. We have had hearings on the process of actually doing the application, and the security.

Let me ask just for the managers—and, Mr. Cox, if you want to jump in as well on this. There are 105 hiring authorities that currently exist. Now, 90 percent of the hires are done with just 20 of those hiring authorities, but there are 105. And most of you mentioned we need direct hiring authority as well for certain things.

My question is not rhetorical. There are 105 hiring authorities. What is being missed at this point? What is slowing down the process? And what I repetitively hear is the hiring is the most important part of it. You do not have as many issues with firing and with oversight if you have good hiring. That involves managers getting a good list, working with H.R. to make sure that everyone knows exactly what you are looking for, getting that in place, and so when they go through the process, we actually get the right person at the beginning.

So my interest is open to anyone who wants to jump in this. What am I missing? Where can this be fixed? Mr. Corsi.

Mr. CORSI. Sir, a little history. About 2 years ago, the Air Force Personnel Center actually worked with the leadership at Tinker Air Force Base, the Sustainment Center leadership, put the whole hiring process on the table. They peeled back every process associated with it. The 80 days in a lot of ways is a misnomer because the clock starts when the manager actually puts a hiring demand on the system.

What does not happen now is if you had good human capital and workforce planning, managers would be able to predict months in advance in terms of the skills that they need. The real test is how long does it take from the time the manager decides they need a replacement to the time the individual shows up, and that is much more than the 80 days.

Senator LANKFORD. So take a guess. What is that?

Mr. CORSI. I would say a guess is probably in the 150-day plus, range from the time they identify the need to the time the worker shows up. So as part of that major relook at I do not know how many individual processes—well over 100—it took about a year to peel that back. And, last summer we were in the process of implementing those process improvements Air Force-wide. But a lot of the onus is on the manager, getting out in front, knowing what new workloads are coming in the future, and putting the demand on the system for either the new workload or when they know that they have populations that have communicated that they are going to be leaving the workforce. So that up-front piece is very important on the part of the manager side of the house.

Senator LANKFORD. So how do we fix that? Because that is one of the key issues, is trying to get the managers to make sure that they are predicting what they need and then getting very specific on the criteria that for this task, this is the skill set that is needed. If you make it real open, they need to be a nice person, they need to be well dressed and professional. You have this huge pull, and you may or may not get the qualified person. If the manager gets very specific in what they need as far as criteria, that helps to be able to narrow the process to be able to work through. Am I correct or not correct on that?

Mr. CORSI. Yes, Senator, you are correct.

Senator LANKFORD. OK. So how do we get to the point where we can help our managers understand the importance of predicting in advance very specific in what they need, and so when we get to the end of it, we get better output?

Mr. CORSI. So one of my recommendations is you have to require that the organizations have a human capital strategy, strategic plan, which forces them to look at the current workforce, what is coming down the pike, and require them to use analytics to get really smarter on the front end of this so that they can actually get the right talent.

Senator LANKFORD. So do we have a good example of that? Is there an agency that is doing that well that we could look at as a model? I mean, that is a common—

Mr. CORSI. Senator, I would say look at the recommendations that came out of what the Air Force and Air Force Materiel Command (AFMC) were able to do during that period of time. We know OPM went in and took a look at what the Air Force is doing. There is some great info. There was a lot of effort. Leadership was involved. They had to brief myself, AFMC leadership, the Sustainment Center commander on a regular basis as to the progress of what they were doing. And now we are in the process of rolling it out.

So I do not lock into that 80-day. All I am looking at is from the time we put a demand on the system or knowledge of what we



need to the time we get a warm body—and in past hearings, you heard about the time it takes for suitability checks. For an example, as part of improving the process, as coming out of that review, at Tinker Air Force Base and within AFMC, they used to bring an individual to in-process. They would work on filling out security papers. They would go home. They would work on the medical. Then they would go home. They now do that in one process once they get the individual on board.

We are also trying to encourage commanders to take a little risk, bring the individual on board before the suitability check plays out. And then you have that caveat in there. If it is not successful, then you are not going to have employment with the Air Force. But get in front of that time it takes. Take that short risk.

But that is all part of it. It is managers, it is OPM with its process. All of it has to work together.

Senator LANKFORD. Well, I would certainly agree that what is happening in Tinker Air Force Base, in both the relationship with AFGE, with management, with the cooperation with the Air Force, everyone is trying to be able to make this work. We have a tremendous number of people that are coming aboard. That is the lead sustainment facility for the Air Force, and they are trying to be able to set the example for it.

So that is a great example. I am pleased that you are able to say if we are going to look at anything governmentwide, look at Tinker Air Force Base and how they are trying to get it done. We can continue to work with Tinker to be able to help pull those ideas out, what is happening there in their hiring process. But at the end of the day, as I have chatted with several folks around my State, when you have somebody that is warehouse or forklift, for instance—I hear this all the time from McAlester, from the Army Ammunition Depot there. They are trying to hire a forklift operator. That same person goes and applies at five other places around McAlester that day, and then they also apply at the Army Ammunition Depot. Four months later, they get a callback from the Ammunition Depot. They have already been employed by somebody else 3½ months at that point. And so it is too slow of a process, and we are missing a lot of really great potential employees just based on the slowness of the process.

Mr. CORSI. Senator, if we opened up the window—or I should say the authorities for the hiring officials to have more direct hiring authority, even a forklift operator at an installation could be very critical for other things to happen at that installation, so why don't we give the hiring manager direct hire authority when they determine that that skill is critical? And you can bypass some of those other processes to allow you to do exactly what you are saying: on-the-spot job offers, an individual can commit at that time.

Senator LANKFORD. When you are moving munitions, that forklift operator is pretty essential and fairly important in the process.

Let me move to Senator Portman.

#### **OPENING STATEMENT OF SENATOR PORTMAN**

Senator PORTMAN. Great. Thank you, Chairman Lankford.

I wanted to come to the hearing today partly to support what Senator Lankford is doing, which is looking at the tough issue of

management within the Federal Government. And we do not do that enough, in my view, in terms of oversight, so I thank him for that. And we have a great panel here. My questions may have been answered earlier, and I apologize if I am asking about topics that have already been addressed. But I have three basic questions.

One is with regard to hiring, and one of my frustrations when I was at the Office of Management and Budget was our difficulty of competing with the private sector, particularly for technology jobs at the time, and that is still true, I believe. But we just do not have the speed of hiring that is the, real-world speed and, therefore, people take other opportunities. Even when they are willing to forgo a higher salary to be in public service, we cannot provide them that opportunity quickly enough. So comments further on that would be helpful.

Second is on separation. When someone is not performing, how do you provide the ability to get that person out of the way of those who are performing? And I think this is a real problem in terms of morale, and I certainly found that when I was at OMB. As you know, some specific statutes have tried to deal with this, including on the defense side, and actually including on the Internal Revenue Service (IRS) side. But any thoughts you have on that, when someone is not performing, gone through the proper procedures, how do you ensure that that person is, given the opportunity to leave so that others can then take those positions and feel as though if they are performing well that their performance is being valued?

And then the third one goes to the broad issue of performance measures, and you will recall the Program Assessment Rating Tool (PART) scores, which were not without controversy, which was an attempt to measure the performance of agencies and also measure the performance of personnel. Part of PART was to look at how people were being motivated, empowered, and whether that was working.

We have a new administration. We have a new opportunity to look at how to encourage better management in Federal agencies. Broadly, what do you all think of that?

Let us start, if we could just quickly, on this issue of hiring. Maybe, again, that is something that has already been discussed, and I like your idea, Mr. Corsi, of giving more authority to the people on the line who are making the hiring decisions so you can cut back on the layers of bureaucracy. But any other quick thoughts on that?

Ms. JOHNSON. I would like to speak about the budgeting for hiring, and that is very critical that we have that budget in place. We have talked about possibly a 2-year budget plan that allows the agencies to know what they are going to be funded for.

I know at Cherry Point we get our workload from other DOD agencies, and when they do not know what their funding levels are going to be, it is very difficult for them to give us the forecast on what workload they are going to be sending in to us. And with our staff being very trade-driven and getting that right skill set in those positions, when we are not funded or do not know what that funding is going to be up front, we cannot bring someone in off the street and just put them into the sheet metal world and say, "Go forward and make an aircraft."

So we need someone that can be in there and can be trained so that we have the adequate staffing for those positions. So I think having the budget in place early instead of waiting until half of the year has gone by and then we are trying to bring additional funding is and support the requirements that now the customer has been able to fund, it is very difficult trying to flex our work staff to accommodate that workload.

Senator PORTMAN. Yes, and, Ms. Johnson, if you think about this, you are competing with the private sector. They also have ups and downs, in the private sector some of the companies that you deal with, that you contract with. But they have a more predictable budget. In other words, they make a decision. They may end up not being in the black the whole year because of that, and then they may have to make adjustments. But typically that is after the fact. But in the meantime, they kind of know what their budget is going to be for the year, and having a couple years—and most companies have, a much longer period of time to train people and get them up and so on—would be a disadvantage.

Ms. JOHNSON. Right, and that would also help us with the succession planning and knowing which positions were critical and that we needed to make sure that we were able to hire people or have people in the positions for potential retirees because of our aging workforce, and with our limited budget and not being able to bring in new employees, to have them trained up, oftentimes restricts our ability to be able to seamlessly move forward when we lose—

Senator PORTMAN. How about the separation issue? Anybody want to talk about that quickly?

Mr. VALDEZ. I would be happy to. In my testimony I talked about forum shopping, and I think that that is probably the most effective way we can deal with this issue, which is having a single avenue of appeal for performance issues. Currently, there are multiple avenues of appeal where they can drag out separations, by appealing to union grievances or EEO processes or IG complaints. And so I think we could speed up the system that way.

I do not think anybody at this table feels that we should keep bad performers on, and we are all interested in expediting the removal of employees who should be removed for performance.

I would like to return to the hiring issue for just one second. I think part of what we are talking about here is a systemic issue in the Federal Government. No corporation in the world would have a human resources office that does not serve as the principal adviser to its operating units on issues like hiring, on issues like separation. And, unfortunately, I think what has happened with OPM is that they delegated much of the authorities that they have to the agencies on transactional issues, how you hire, et cetera. But there was not a concurrent upgrading of OPM to serve as that corporate adviser for the Federal Government.

Let me give you a specific example. I was heading up an H.R. shop, and my senior management directed me to come up with a workforce analytics plan to do exactly what Bob was talking about in terms of figuring out what our retirement rates were, et cetera. So I went to OPM and said, "Can you help me out? Because I am not an expert in this area." And it turned out OPM was not an ex-

pert in that area. But if you think about it, they should be, and they should be providing to agencies advice about how to manage their workforces and make it easier for them to do that.

I have in front of me, Title V of the U.S. Code that governs personnel in the Federal Government. I also have three volumes of OPM guidance on this. No Federal manager can possibly understand all of this, and so, when you mentioned, Mr. Chairman, that there are 105 hiring authorities, that is the first time I have heard that number. When I was in the Federal Government, I probably knew of 5 or 10 of them. So if I was able as a manager to be trained by OPM to understand what was available to me, it would make a much more effective Federal Government, I think.

And then in terms of performance measures, I am a big fan of PART. The agency where I worked at was one of the first PARTed, and it was a refreshing exercise. But I think, we should build on that experience in a way to incentivize agencies and personnel to relook at how they view risk and reward within the system. OMB just sent out information about Revised Circular A-123 and talked about enterprise risk management. Well, that is a fundamentally different way of viewing how you run the Federal Government. You want to encourage risk. You want to encourage appropriate risk and reward it. And that is the same thing with performance measures and performance management for Federal employees. You want to encourage risk. You want to encourage rewards for those high-flying, innovative employees.

Senator PORTMAN. Thank you. My time has expired, so I do not want to take more than I should, but if there were other comments on the performance measures—

Senator LANKFORD. I think Mr. Cox is going to burst if he does not get a chance to comment on that.

Senator PORTMAN. Great. Mr. Cox, I would love to hear your comments.

Mr. COX. Senator Portman, I agree, and in looking at removing poor performers, the probationary period I do not think is adequately looked at and reviewed by managers. A high number of Federal—

Senator PORTMAN. That is the one-year period?

Mr. COX. High numbers have a 2-year period. I believe now all of DOD is 2-year. Most Title 38 in the VA are 2 years. So I would say we are moving pretty much to way over 50 percent of the Federal Government, if not 70 percent, in a 2-year probationary period. There needs to be strong management training. There needs to be ongoing dialogue, interacting with employees, evaluating their performance.

I supervise and manage employees myself in AFGE. I know usually within 3 to 6 months if they are going to be able to make or not. And many times people do not pay attention to that period, and I think that is a very valuable thing.

Senator PORTMAN. Valuable to—

Mr. COX. Basically, in probationary period it is, "Thank you very much. Go away." But even career employees, it is a 30-day notice. I notify you today. Thirty days from today you can be removed off the rolls; you are not paid.

Now, the grievance process may go on. You may be able to forum-shop, but you can only choose one forum. Once you have elected it, that is it. You cannot keep jumping from one system to the next.

Again, if people continue on the rolls for long periods of time, I would look to my management colleagues. The law is very clear. Thirty days, you are out that door, and that is your problem.

And back to the long time of hiring, the issue of the investigations, the security clearance, OPM has basically contracted all of that out. In 1984, from the day I asked for an application to go to work at the VA as a registered nurse, I filled it out, was interviewed, was selected, went through a security clearance, had a physical, gave notice of my other job, and was on the job in less than 28 days.

Senator PORTMAN. That is because you are such an extraordinary human being. [Laughter.]

Mr. COX. They were doing a fair number. Nowadays, I will be honest with you, the security and background and suitability—we do not want people that are not suitable working for the government, and our environment has created some of that. But, still, I agree with what my colleagues said, that many times you can bring people on, and if you get back bad information, there is still a probation period; you can let them go.

Senator PORTMAN. That is very helpful. I appreciate it. And, by the way, on the clearance process, we did pass legislation—I think it was probably 2 years ago now—to try to not just expedite it but put some more resources against it because of the backlogs. And that is a huge issue with regard to competing with the private sector. And I appreciate your talking about the appeal process, too. Everybody wants to have an appeal. The question is: How can you make sure that appeal is fair but also something where you are not, again, giving other people who are performing well the sense that, it does not matter? And I think that is an important part of empowering people.

Thank you, Mr. Chairman.

Senator LANKFORD. Thank you, Senator Portman.

Can I read a truly bold statement—and I like bold statements—that Mr. Cox wrote in his written testimony that I would love for us to be able to have a conversation on it? So, Mr. Cox, without embarrassing you, I am going to quote you here.

“When poor performers are not dealt with it is never because the civil service laws or procedures are too difficult to navigate, but rather because some managers . . . either do not want to take the time and effort to properly document poor performance and remove or demote poor performers, or because they lack the knowledge, skills, and ability to do [that].” I would love to have a conversation about that, because I have heard this back-and-forth as well. Senator Heitkamp.

Senator HEITKAMP. If I can just kind of build on that, because I think one of the areas that I completely agree with Mr. Cox on is in management supervision, so you get the absolute best floor nurse, you promote her to a role where he or she is going to do scheduling, maybe not even interested in it, but in order to move up the pay ranks, that is a promotion, you are going to do it. And

we do not say here is the bundle of supervisory training that we are going to give you to see if this is something that you can do. In fact, maybe the best nurse manager would be somebody who is not a very good nurse. So, that is one of the challenges. And included with this issue, I would like to throw in the bill that I have introduced, which is the supervisory training bill. I am going to introduce it again in the 115th.

So to Senator Lankford's point, how much would supervisory training, really quality supervisory training, take care of a lot of the problems that we are talking about today rather than simply, an arbitrary, now we are going to reduce, probationary times maybe easy fixes that do not really fix anything?

Senator LANKFORD. Mr. Corsi.

Mr. CORSI. Senator, I would agree with Mr. Cox on the issue of managers, but you also have to understand the managers are torn many different ways day in and day out. The human capital experts on employee relations have been forced to reduce their staffs over the last 15 years. In the Air Force, I would say we took a 50 percent reduction on our personnel management side of the house, because with all the budget challenges, you protect the mission first and then the support side where those staffs have taken a disproportionate hit.

Managers day in and day out are weighing the value of pursuing disciplinary actions and knowing the commitment on their part that it is going to take to pursue those versus turning a blind eye, which is not ideal, but they are making those value judgments.

The 2-year probationary period would go a long way in now giving managers the time to deal with performance issues. Unless the manager was very aggressive, going through all the process, even with the one-year probationary period, it is very difficult to get everything that needs to get done within that first year. The 2-year probationary period, to be quite honest with you, would give management the flexibility to be able to go through that due process working with the employee, performance improvement plans, in order to work that process.

Senator HEITKAMP. So we have just heard from Mr. Cox that we have a 2-year probationary period de facto building—in fact, 70 percent. What is the proof that a probationary period actually accomplishes what you suggest it might accomplish given that 70 percent of the workforce is already under a 2-year probationary period?

Mr. CORSI. The Department of Defense, the National Defense Authorization Act (NDAA) of 2015, put the 2-year probationary period in effect. All I would say, it is probably a little too soon—and, again, since I retired the end of October, I do not know what that experience has been.

Senator HEITKAMP. I just want to say that I managed, by this town not a very big workforce, but I ran big organizations in North Dakota that had property rights to their jobs and you had to go through the process. It would never have taken me 2 years to know that I had somebody I did not need in my workforce.

And so to suggest that this is the end-all and be-all is problematic to me, because it may, in fact, be that this person would be a wonderful person with the right supervisory skills, could, in fact,

emerge as one of the best employees you could ever have. But if you do not have attention focused by managers on developing the skill sets of who they are, I do not see any amount of time—what is the old idiom? Work expands for the time that you are given to fill it. And, 2 years, 15 months, I do not know. It does not seem to me that that is the fix to the problem we have, that we have public employees who stay on the rolls too long in an ill-fitting position, and we have managers who do not know how to inspire and train employees to be good employees.

Mr. VALDEZ. So I completely agree with you, and I completely agree with Mr. Cox, and—

Senator HEITKAMP. And Senator Lankford, completely agree with Senator Lankford. [Laughter.]

Mr. VALDEZ. Yes. Everybody. I am in complete agreement. One of the first things that happened to me when I was a new SES was I denied an employee a promotion, and that employee then filed a grievance on me for age discrimination. And it took me 6 months to resolve that, and the end result was that, I denied her the promotion. But it was wearing, and it was very time-consuming.

After that, I became the manager of the Department's EEO shop, and what I found there was that there was a lot of forum shopping. People would come in; they had had an adverse personnel action against them; and they would be seeking a way to redress that, address that through the employment, through the EEO process.

I really support your notion of supervisory training because it certainly is needed. Managers do need to know what their rights are, and in my testimony we talk about this a lot. But we also talk about agency culture. It has now come to the point with a lot of agencies—and I will speak mostly about the Department of Energy—where it is considered to be too much trouble to deal with poor performers and that, as Bob said, you have so many constraints on your time that you just want to make these things go away.

Senator LANKFORD. Can I ask for a clarification? Is that because of the paperwork requirement on it? The number of hearings?

Mr. VALDEZ. Yes.

Senator LANKFORD. Because that is something you have mentioned a couple times, because one of the things that has come up often is if managers document and show lower evaluations and actually have the meetings with someone saying, "Hey, you are not performing. I am going to put this in your file, and we need you to be able to perform better," then that dismissal goes a lot faster. But if managers are not putting paperwork in the file and they are not having those meetings, then this becomes a lot more complicated. Right or wrong?

Mr. VALDEZ. Well, even with proper documentation, the employees can still go forum shopping. They can claim that you rated their performance adversely because you discriminated against them, for example, or that you were favoring other employees and not them. So that goes into separate processes and gets you involved in, a number of different forums.

But I think the real issue we are talking about here is that you need to change the culture of the agency, and that can be done with supervisory training. But you also need to make it clear to

managers and supervisors that they have a responsibility to the taxpayer that they will deal with poor performers as part of their everyday job.

Senator LANKFORD. Right. Is that part of a supervisor's or manager's yearly evaluation of how they handle it? When they are evaluated—because I asked OPM for evaluation, and I have a copy of the SES Performance Management System Executive Performance Agreement and the annual evaluation. There is a section in it, as I go through it, that talks about leading people, but it has this long list of all the things that are in that criteria. One line of it is: "holds employees accountable for appropriate level of performance and conduct, seeks and considers employee input, recruits, retains, and develops talent needed to achieve high-quality, diverse workforce that reflects the Nation with skills, need to accomplish organizational performance." But it is this incredibly long list of all the things that are in it, and part of my question is, when managers are held to account in their evaluation, is this something that is considered important for their evaluation so they know it is important for the way that they manage and evaluate?

Mr. VALDEZ. In my experience, no.

Senator LANKFORD. OK. Any opinion on that as well, Mr. Corsi or Ms. Johnson?

Mr. CORSI. Senator, in my opinion, it does not get the visibility in the annual performance cycle.

Senator LANKFORD. OK. Ms. Johnson.

Ms. JOHNSON. I know within our agency there are requirements in our performance appraisal for supervisory functions that we are graded on. To say that it is truly a reflection of how we are graded at the end, I do not know that that is a completely true statement.

Senator LANKFORD. OK. Most people live up to what they know they are being scored on. My daughter studies the most on the things that will actually be on the test. We all do. And if I know at the end of the year there is going to be a test on how I did hiring, how I put together the criteria for that, how I documented issues, both good and bad, how I encouraged employees in their training, how I helped facilitate a better workforce—if I know that is a major part of my evaluation, I will make sure that I accomplish that because that is a part of the evaluation. And I would recommend—I know we have not talked about this yet, but that we get an opportunity to be able to work with OPM on how everyone is evaluated and what are the key criteria of that. Mr. Cox.

Mr. COX. Senator, I am thinking back to my days of working in the VA Medical Center. There were various units that always had people wanting to go work on that unit, number one, because it was a great nurse manager, the care for the veterans was superb, the ratings that the veterans gave were great. Everybody seemed happy; there was a give-and-take mode of always getting the scheduling done, the work done. If there was someone that was slacking, the group would immediately take care of it.

Then there would be a unit where no one wanted to go to work—

Senator LANKFORD. Right.

Mr. COX [continuing]. That it was disastrous all the way through, and it usually had to do with the management skills. And I suspect



some of my colleagues here probably have managed units where they are always trying to get people to go to work and other places where people are begging, "Move me to that section."

I would welcome the opportunity for AFGE, Congress, and the Managers Association and SES, for some of us to do some type of studies in the workplace. There are things that motivate people, and what is it that creates good managers, that makes people want to go work with that group and perform well? And I find good leaders always seem to attract good employees, and that even makes them a better leader.

So I do not have all that pulled together, and I am not quite the researcher, but I have seen this happen well in organizations.

Senator LANKFORD. Thank you.

Ms. JOHNSON, were you about to say something as well?

Ms. JOHNSON. I was, and it actually will add to what Mr. Cox has mentioned. I think oftentimes within the Federal Government we bring people in on a technical side. They are very good at that. And as Senator Heitkamp had mentioned, we move them into management, and they may not have management skill sets to be successful in managing. But they feel like that is the only way that they can continue to progress their career, is by going into a management field.

So having that dual track that I know you support to continue to progress their career in the technical side as well as having an opportunity to bring in managers that have those soft skills and have those management skills, that can be successful in managing the workforce, and know how to manage a workforce I think is very important. And providing adequate training for new managers whenever they come into the workforce, not only for dealing with the processes but ensuring that they have that soft skill as well to be able to successfully manage employees I think is very important.

Senator LANKFORD. Mr. Valdez.

Mr. VALDEZ. I would encourage you, Senator Heitkamp, to think more expansively about supervisory training. At the Senior Executives Association, we are highly supportive of building a leadership pipeline within the Federal Government. Leading people, is fundamentally different than managing an organization.

Senator HEITKAMP. That is right.

Mr. VALDEZ. And so, we are supportive of developing leaders down at the GS-9, GS-11 level and providing them with the skills that they will require as they move up the management ranks to be able to effectively lead organizations and get to the point where, Mr. Cox was saying they are a preferred employer. Currently, there is no such thing in the Federal Government.

Senator HEITKAMP. Can I ask you, are you familiar with my bill?

Mr. VALDEZ. No.

Senator HEITKAMP. OK. It would be great if you would look at it.

Mr. VALDEZ. OK.

Senator HEITKAMP. Make any suggestions that your organization wants to make. I totally agree. I think that you can take that great nurse and during the period of time provide leadership, have them understand the dynamics of the group, and actually move them into management if you build leaders. I could not agree with you

more. I think our challenge right now is that we look for the easy fix. None of this is easy, and growing leadership and growing management skills—because it is two sides of the same coin—is not easy. But people have to see there is some benefit in their career to take that on. Let us talk about the senior nurse or, in my case—I will give you a personal example. One of my first jobs was working in a legal section of the tax department in my State. The man who headed that up, the general counsel, probably one of the best attorneys in the State of North Dakota and probably one of the best attorneys I have ever worked with, and I have worked with great attorneys. He was not exactly a good manager. But I learned so much from him that it gave me the confidence to move forward. Rather than putting the management responsibility, we should reward him for being a mentor in place, for building the capacity and building the leadership.

And, I understand that there has to be a hierarchy, but the best organizations have an invisible hierarchy, in my opinion. They have a unified, consistent purpose in what they are doing, and people know everybody's role, they know what their responsibilities are, and they come to a point of achievement together.

And that is not easy all the time when you are trying to take—my dad's army, do not ask questions, just march, that is not the army anymore, and it would not be successful recruiting people to that model anymore. We have to get away from old ideas and old thinking about hierarchies and start thinking about leadership and management.

I totally agree. I would welcome any input that you have. We have not introduced it yet, but I am curious about what you think we could do more of.

Mr. VALDEZ. Well, let me give you one further input then while I have the chance, training budgets have been slashed throughout the Federal Government. It is usually one of the first things that go. And I think one of the things that you should consider when you are thinking about this training is giving agencies funding and finding ways to carve out dedicated line item funding for this kind of training, because it does not exist and it is the first thing that is cut.

Senator LANKFORD. I would just say you are not going to find disagreement with us on that. You and I both know training is often farmed out to some other outside group, and they come in, and sometimes the employees find it to be helpful and sometimes they do not. And sometimes the way they do training ends up on somebody's waste list at some point, and someone says, "What in the world are we paying for that for?"

So the only thing I would say on training is let us make sure training is effective and that we are not just saying we are supposed to do training on a budget, this is a nearby contractor, they will come do it for it, and we can check the box that that training was done, when really no one saw it was useful at the end of it.

Senator HEITKAMP. I have another appointment that I have to rush off to. I just want to also ask that a Statement of the National Treasury Employees Union be entered into the record.<sup>1</sup>

Senator LANKFORD. Without objection, so I think we are OK.

Senator HEITKAMP. And I look forward to a continuing discussion. I want to thank Senator Lankford for making the Federal workforce a major priority of this Committee. We started that work last Congress. We are going to continue. So do not think this is your one chance. We want to hear from you.

I am always amazed when we get into these discussions—no matter what perspective you have, we kind of come down to the same thing. And so that means there is an answer, and that means that if we make the investment of time on the oversight side of the dais to listen to what you all are challenged with, that we can make real progress. And maybe we can have fewer employees if we have more productive employees, happier employees, less turnover. And so there is a way that we can do this without breaking any budgets, I guess is my point.

Senator LANKFORD. Yes, and we will be here about another 6 minutes or so. We are about to wrap this up as well, so if everyone is trying to wonder if we really are going to go to 7 p.m., we are not. [Laughter.]

We will be about another 6 minutes.

One of the things that I would say is we are building a bucket for Mick Mulvaney when he comes in and leads OMB. Our conversations with him have already been that is not just a budget office, that is a management office as well, and we fully expect the management side to be aggressive on trying to fix some of these broken systems that are there.

It is something that Beth Cobert worked very hard on at OPM when she was there and faced a lot of frustrations on it as well. We will anticipate a new OPM Director to also step in and to be able to help finish out some of the work that they had already started, and let us see what we can get done. So that is part of the oversight. That is one of our buckets.

The other bucket is what do we have legislatively that is either in the way, that is overly complicated, or that needs to be fixed with a process system. And so as you have ideas on these things, we are very welcoming to those things, both oversight ideas and ways we need to engage or legislative ideas.

I do want to bring up one thing that has been mentioned a couple of times just to be able to get input because it is new. Mr. Cox, you mentioned this as well in your testimony, and that is the DOD new process of New Beginnings and trying to work toward a merit-based system and addressing in some ways the GS system and to say, "Is there a better way to do this?"

Now, I understand this is actually a 5-hour conversation we are going to cram into 5 minutes, but it is new, it is being rolled out. Part of it for us is the oversight part of it. Part of it is—I guess the large part of my question is: What concerns you and what excites you about that process of the New Beginnings as we are look-

<sup>1</sup>The statement of the National Treasury Employees Union appear in the Appendix on page 86.

ing at it being rolled out at this point? So an open question of what concerns you, what excites you. If you have any specifics on it, that would be very helpful. Mr. Cox, do you want to go first?

Mr. COX. What excites me is that it has been a joint, cooperative partnership between labor and management, working through it together, figuring out how to best recognize and take care of good employees, and also for managers to listen to the input of the unions as to how to measure and to evaluate performance management.

The holdback, is working well at the top as it moves down to actually where the rubber meets the road between a very front-line supervisor and a front-line group of employees, that there is probably not as much attention, the level of training, the level of commitment for those parties to work together as well as the parties at the Pentagon level and various parts of DOD.

Senator LANKFORD. Yes, in your written testimony, you made an interesting statement as well when you said that managers need to have some courage, which I thought was an interesting statement to make, and that is to be able to address the issues that are there and to be able to confront those and not just be passive, and it is how I took that. But just also to be able to step in and affirm. I mentioned earlier the statistic that 22 percent of the Federal workforce feels like the promotions are done based on merit. I did not mention before in a similar study there that 37 percent of Federal employees are affirmed for positive things in the workplace, which would tell me the vast majority of them do not even feel like they are verbally affirmed for taking on and doing a good job, which by far most of them are. So that affirmation part of it I think is also very important as well to be able to figure out, so maybe looking for how this works and it works through.

Mr. Corsi, do you want to make some comments on it?

Mr. CORSI. Senator, I'm very positive on New Beginnings, working with the unions. We went from a pass-fail system to now three tiers where you can recognize outstanding performance. The biggest challenge is it requires a manager to have more face-to-face discussions with the member, talking about performance, talking about expectations and feedback, more dialogue. So there are no surprises in the evaluation process. If you can now tie New Beginnings to a system like the demonstration projects that are out there right now, which are all pay for performance, now you got the evaluation system to go with the pay system, which can be a win-win situation.

Senator LANKFORD. OK. That is great. Mr. Valdez.

Mr. VALDEZ. You said it correctly at the beginning when you said that we have a 20th, maybe even a 19th Century, workforce structure for 21st Century missions. And so the Senior Executives Association is fully engaged, and we are ready to work with you and anybody else to get a modernization of the workforce. We are supportive of New Beginnings, but we would also like to see a wholesale top-to-bottom review of the General Schedule and also, frankly, of the Senior Executive Service. What is its current role and purpose within the Federal Government today?

Senator LANKFORD. OK. So let me throw an unfair question out to you. How long does New Beginnings need to be out there to get

a good feel for what is working and not working before it transitions into a GS evaluation? Is that 5 years we need to watch? Is that 3 years? Are there other demonstration programs that have been out there much longer? Here is what I hear and the reason I bring it up. I consistently hear people say, "We need to address the GS system." And then right behind it, they say, "And that will be the most painful experience the Federal Government has taken on in decades. I would never, ever touch it if I was you. But we need to do it."

So the question is: How do we get a good read for it to know this works well, management, AFGE, everyone looks at it and says, "This is a good, functioning system, let us start trying to multiply it out to other places?"

Mr. CORSI. Senator, I would say it is probably going to take 3 to 5 years.

Senator LANKFORD. OK.

Mr. CORSI. Because they phase the implementation to begin with for parts of DOD, and then once everybody is transitioned, it is going to take 2 years, 3 years beyond that to get a good assessment whether we need to make some adjustments.

Senator LANKFORD. OK. Thank you. Ms. Johnson.

Ms. JOHNSON. As far as the New Beginnings, I think that is very positive, having additional conversations with our employees, and ensuring that they understand what their goals are. Oftentimes there is conversation at the beginning of the grading period and then one at the end of the grading period, and that does not give the employees the opportunity to understand how they are performing during that period so that they can make improvements, give management the opportunity to give suggestions to the employees on how they can improve their performance, and also to recognize their good performance during that period instead of waiting until the end of the grading period to even recognize good performance.

And as far as how long we need to look at the system, I do feel like that there were some good opportunities within the National Security Personnel System (NSPS), whenever that was rolled out. I think that there were areas that it needed some improvement. But I think instead of trying to make that system better, we ended that system and went back to the GS system, which is very old and does not lend itself to recognize our good employees and be able to adjust within that system for hiring practices.

And so I do not know that I can put a timeframe on it, but I do think that we need to make sure that we are looking at the system and making sure that we have utilized all of the opportunity for a new system before we just say it is not going to work.

Senator LANKFORD. Right. OK. There is a tremendous amount we can still talk about. As I mentioned before, several of you put things in your written testimony that we never even got to today. Those are a part of the record. They are not being ignored. Again, we could be here a very long time talking through those issues. I do appreciate both your written statements and oral statements and the conversation that we can have. If we can multiply this type of conversation to multiple other places, it would certainly be helpful.

And so we look forward to working with Mick Mulvaney, with new OMB and OPM leadership, to be able to help share some of these ideas within them as well and be able to see where we go.

So before we adjourn, I do need to announce that we hope to have a hearing on Thursday, March 9, to discuss the issues surrounding the use of data and science in the regulatory process.

That will conclude today's hearing. I do, again, want to say thank you to you before we conclude for all the work and the preparation that you did on this.

The hearing record will remain open for 15 days until the close of business on February 24 for the submission of statements and questions for the record.

This hearing is adjourned.

[Whereupon, at 11:52 a.m., the Subcommittee was adjourned.]

## A P P E N D I X



### Opening Statement

Hearing before the Regulatory Affairs and  
Federal Management Subcommittee,  
Thursday February 9th at 10 AM

**“Empowering Managers: Ideas for a More Effective Federal Workforce.”**

Good morning and welcome to today's Subcommittee hearing titled “Empowering Managers: Ideas for a More Effective Federal Workforce.” In the 115th Congress, this Subcommittee will work to find consensus solutions to the broadly recognized challenges which prevent the federal workforce from effectively serving the American people.

Federal agencies employ some of the best and brightest individuals this country has to offer. Every day, federal civil servants help protect our communities, provide essential care for our veterans, and keep our airports running safely and smoothly. We are grateful for their diligence and we are interested in their ideas and concerns.

I acknowledge what many citizens and federal employees themselves recognize: The important work of our federal employees is often obstructed by a culture that rewards attendance over initiative. A culture that does not differentiate between poor performers and those who excel. In fact, it is the high performing federal workers who often complain that their underperforming counterparts harm workplace morale, drive down agency objectives and raise concerns that compensation is not appropriately related to one's job performance.

For instance, the Office of Personnel Management's 2016 Federal Employee Viewpoint Survey found that a mere 22 percent of employees agreed with the statement “pay raises depend on how well employees perform their jobs.” While the government fails to appropriately compensate employees based on their performance, managers and agency executives face many additional challenges. Specifically, federal managers are frustrated by an extremely complicated and time consuming hiring process.

In 2016, it took an average of 100 days to fill an open position in the federal government. In 2015 it took 90 days. The problem is getting worse. Many highly qualified applicants cannot wait over three months to start work. Managers need employees to start work promptly to achieve their agencies' missions.

Whenever there is an ongoing, structural problem within the system, it is our responsibility and duty to address it. The civil service structure as we know it today was created in the 1950s as a result of the Hoover Commission. The last time Congress accomplished significant government-wide reform was with the Civil Service Reform Act of 1978. No successful business operates on

an employment model from the 1950s and no effective workforce runs a system last updated in the 1970s.

Through authorities granted by Congress, the President can implement government-wide policies to improve the functioning of the entire federal workforce. On January 23, 2017 the President issued the Memorandum for the Heads of Executive Departments and Agencies establishing a hiring freeze until the incoming Director of the Office of Management and Budget recommends a long-term plan to reduce the size of the Federal Government's workforce through attrition. President Trump's hiring freeze is similar to Memoranda issued by past presidents. In 1977 President Carter and in 1981 President Reagan issued broad hiring freezes for executive agencies.

As the Chief Executive of the federal government, President Trump is responding to widespread frustrations voiced by the American people with their government. Attrition through a hiring freeze may not be the optimal solution for creating an efficient and effective federal workforce. But in the absence of any notable legislative reforms to improve the federal workforce, the Administration has every right to alter the status quo through this valid executive action.

Congress can either watch as the Administration deals with the federal workforce through executive actions, or it can find consensus, work with the Administration, and take up the mantle of substantive legislative reform. To do this, the Subcommittee plans to have a series of hearings to discuss a broad number of topics, including hiring, training, compensation, performance management, discipline, and separation—we will invite a wide array of viewpoints.

In today's hearing we will start with the perspective of federal managers. As we look to tackle some of these challenges, it is extremely important to hear from the managers and senior executives who confront these issues on a daily basis. As experienced managers and executives, our witnesses today will be able to provide unique perspectives on the difficulties they faced within the civil service as managers and shine light on potential bipartisan improvements.

Even if we may differ on some of the answers, we all see the same problems. I hope my colleagues will join me in this pursuit and am eager to work with all interested stakeholders to ensure Congress develops comprehensive reforms to set the federal workforce back on track. I look forward to discussing with our witnesses today, ways to deliver a more effective federal workforce for the American people.

With that, I recognize Ranking Member Heitkamp for her opening remarks.



**Opening Statement of Ranking Member Heidi Heitkamp**  
**Subcommittee on Regulatory Affairs and Federal Management**

***Empowering Managers:  
Ideas for a More Effective Federal Workforce***

**Thursday, February 9, 2017**

**As Prepared**

Thank you Chairman Lankford.

While we will inevitably discuss challenges in the hiring process today, I think it is important to highlight the irony of that discussion in light of the current hiring freeze across the federal government.

When the public sector cannot do its job in North Dakota, it has a direct impact on the lives of those in the private sector.

From making sure the food we eat is safe, to answering taxpayers' questions, to ensuring our veterans are cared for, to protecting our nation from harm—federal employees work to make North Dakota and our country a better place to live every single day.

When we fail to fill needed vacancies unnecessarily, the only people we are hurting are ourselves.

Across the board cuts and a shrinking of the overall federal workforce are not the answer to making the federal government more efficient or effective.

These cuts will also come at the expense of talent, morale, and mission in our workforce—none of which we can afford to lose.

Managers play a vital role in the culture of an agency, and are responsible for giving employees the tools they need to succeed and thrive in the workplace.

While today's hearing is, of course, not focused on the hiring freeze, it is important to keep in mind how such a freeze directly impacts the ability of both managers and employees to do their jobs effectively.

I am looking forward to examining how we can help managers use the tools that are available to them more efficiently, as well as on how we can improve supervisor training.

I will be doing all that I can to protect federal workers, and I think it is important that we are in continued communication with the Administration regarding how they plan to implement initiatives moving forward.

I look forward to hearing from the witnesses, and greatly appreciate you all taking the time to be here today.

Thank you.

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Testimony  
Before the United States Senate  
Committee on Homeland Security and Governmental Affairs  
Subcommittee on Regulatory Affairs and Federal Management  
February 9, 2017

## **Empowering Managers: Ideas for a More Effective Federal Workforce**

**Statement of  
Renee M. Johnson  
National President  
Federal Managers Association**



Chairman Lankford, Ranking Member Heitkamp, and Members of the Senate Homeland Security and Governmental Affairs Subcommittee on Regulatory Affairs and Federal Management:

My name is Renee Johnson and I am here today on behalf of the Federal Managers Association (FMA), representing the interests of more than 200,000 managers, supervisors and executives in the federal government. Thank you for this opportunity to present our views on the management of the federal workforce before the Subcommittee. As federal managers, we are committed to carrying out the mission of our agencies in the most efficient and cost-effective manner while providing necessary services to millions of Americans.

I am the National President of the Federal Managers Association. In my professional life, I am Customer Engagement Branch Head at Fleet Readiness Center (FRC) East in Cherry Point, North Carolina. Please note 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 the 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 more than 40 different federal departments and agencies. We are a nonprofit, professional, membership-based organization dedicated to advocating excellence in public service. Our purpose is to ensure an efficient and effective federal government, so this hearing, examining ways to empower managers and discussing ideas for managers to better perform their jobs, is welcome and timely. As front-line managers, we appreciate the opportunity to appear before you today.

FMA supports reforms that establish increased flexibilities, accountability and performance results across the federal government. Below are FMA's views on challenges facing the federal workforce and policy changes that we recommend in order to modernize the federal government in the areas of recruitment and hiring, retention, performance management, and termination, among other provisions.

#### **RECRUITMENT, HIRING, AND RETENTION**

With regard to hiring, FMA recognizes and applauds the bipartisan efforts on commonsense reforms that came out of the Homeland Security and Governmental Affairs Committee last year, specifically the Competitive Service Act (P.L. 114-137). This bill allows agencies to review and select job candidates from another agency's "best qualified list" – a list of applicants who have already undergone a competitive assessment process and are certified as eligible for selection by an agency selecting official. This tool expands access to highly qualified candidates across the government and helps streamline the hiring process, allowing agencies to recruit and hire top talent more easily.

However, FMA hears regularly from our members about the challenges associated with hiring, calling the process cumbersome and far too long to compete with the private sector. From the point of announcement in USAJobs to the point where the employee is on board, the best and brightest candidates are often offered and accept a similar role in the private sector – where they stand to earn far higher wages – while waiting to hear back about a federal position. At FRC-East, managers voice



concerns regarding difficulty recruiting and retaining new talent necessary in the artisan world to maintain ever-aging aircraft in the high fleet operational tempo. The current process serves as a deterrent for many highly qualified people.

Further, we have heard concerns voiced about the self-assessment questionnaire and its overall impact on hiring. Some people believe that a potential candidate must rank themselves as a “5” on a scale of 1-5, on every question asked, in order to even be considered for an interview. FMA believes in an open, honest, transparent system and would certainly never advocate that a candidate knowingly mislead or blatantly lie in an interview process. However, in practice, the prevalent rumors regarding how candidates should rank themselves puts people in an awkward position of inflating or exaggerating their own skills on the questionnaire in order to get an opportunity to interview. FMA recommends the committee oversee reform in this area by the Office of Personnel Management.

#### **Direct Hire Authority**

Allowing direct hiring authority (DHA), particularly for recent graduates, is emerging as a top priority. FMA notes that Congress approved favorable language on this issue in the most recent National Defense Authorization Act (NDAA), allowing for DHA within the Department of Defense for financial management experts, including accounting, auditing, and actuarial positions, among others.<sup>1</sup> FMA sees this as a positive step with regard to hiring, and supports continued action in the future.

DHA allows managers to expedite the hiring process, addressing a concern noted above. Filling positions in a timelier manner would achieve a maximum benefit to the vital missions accomplished by federal employees across the government. FMA recommends that the subcommittee continue to examine other positions in the federal workforce where managers could utilize DHA.

#### **Salary Adjustments to Compete for New Hires**

Another commonsense area of interest that would immediately help managers in hiring is the ability to provide salary adjustments that would enable managers to compete for new wage grade hires, especially in high-cost areas of the United States. For example, blue-collar employees in San Diego, California – which has a notoriously high cost of living – are compensated less for performing the same work performed in Cherry Point, North Carolina.

This poses severe challenges for managers looking to attract and retain the best people, who are deterred by the comparably low salaries. Managers need the ability to recruit, hire, and train the best and the brightest. Approximately two-thirds of the federal workforce at my installation at Cherry Point consists of wage grade employees maintaining and repairing military aircraft, engines, and components. It severely impacts our ability to perform the mission when managers are unable to compete because the private sector can pay more for wage grade employees. Further, it costs untold taxpayer dollars to recruit and train an employee, who often leaves the federal workforce after as little as a year to go to the private industry. Therefore, FMA recommends that the committee investigate options for managers to adjust hiring packages that reflect the unique circumstances in their areas.

<sup>1</sup> <https://www.gpo.gov/fdsys/pkg/CRPT-114hrpt840/pdf/CRPT-114hrpt840.pdf>



### Hiring Freeze and Attrition

On January 23, 2017, President Trump signed an Executive Order instituting a hiring freeze across the federal government. Current and former managers have expressed deep concerns with this action, and argue its effect will run counter to its intent. The immediate hiring freeze applies to all agencies across the federal government and will be in effect for at least 90 days. During this freeze, the only hiring to take place will be those which agency heads deem “necessary to meet national security or public safety responsibilities.” The Executive Order continues the 90 days will be for the directors of the Office of Management and Budget and the Office of Personnel Management to develop a greater plan of attrition across the federal government and the hiring freeze will end once that plan is put in place.

FMA steadfastly opposes any blind, arbitrary plans to cut the federal workforce and believes that the President and Congress should work together to develop a plan where federal agencies are properly funded to complete their congressionally-mandated missions. The Government Accountability Office has consistently concluded that wide-ranging cuts to the federal workforce end up saving far less money than projected, and may actually cost taxpayers. Managers need the tools that enable them to achieve their goals of ensuring national security, public safety, and each American’s quality of life. A hiring freeze, or attrition, as it has been proposed, severely hampers their ability to do so. Instead of a hiring freeze or attrition, the American taxpayer would be better served with improvements to the workforce, not blind cuts. All federal agencies should be allowed to match hiring actions that align with essential mission and funding.

As this committee and Members of Congress consider ideas related to hiring, FMA urges you not to adopt legislation that would make it harder to accomplish our missions by arbitrarily demanding cuts in staffing levels across the federal government. In the executive action taken by President Trump, the hiring freeze is slated to be replaced with an attrition policy calling for agencies to only be allowed to hire one new employee for every two or three employees who leave federal service. This does not take into account the impact on many of the critical missions of this country. The Social Security Administration (SSA) and Internal Revenue Service (IRS) already face a severely depleted workforce and are unable to meet their missions.

A conservative estimate shows the IRS has lost at least 18,000 employees since 2010. While the agency handled more than 137 million tax returns in 2015, it only managed a level of service of 37.6 percent, meaning more than six out of every ten people who call an IRS call center do not speak to a customer service representative. As a result, the IRS estimates government losses of greater than \$2 billion in revenue. Additional results are reduced enforcement operations to combat fraud and abuse, as well as delays in tax refunds to the American public.

Before he retired, your former colleague, the esteemed Senator George Voinovich, a chairman and ranking member of the Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia, addressed his colleagues about what agencies should do when Congress does not provide the funding and resources all agencies need to operate:

“It just drives me crazy that more departments don’t really stand up and start raising you know what when we don’t give you resources you need to get the job done, particularly in management . . . I



think you ought to stand up and fight and not get rolled. Make a big deal out of it. Get the president involved. If I'm going to get the job done I've got to have the tools to get that job done."

Sen. George Voinovich<sup>2</sup>

FMA agrees with this sentiment. Mandating attrition and further reducing the federal workforce will only result in higher costs and more inefficiency.

#### **Veterans' Preference**

FMA has heard from many members that the current veterans' preference program is burdensome and in some cases prevents otherwise-qualified applicants from consideration of positions. Subcommittee member John McCain (R-AZ) included language (Sec. 1134) in the Senate-passed version of the National Defense Authorization Act (NDAA) last year that would have limited the application of points for preference eligible hiring to the first appointment of a preference eligible candidate in a permanent position in the competitive service. FMA notes that while this language was not adopted in the final conference report, the conference committee included concerns about the Department of Defense (DOD) "accessing highly skilled non-veterans into its civilian labor force due to strict preference eligible hiring requirements."

The final conference report also called for a comprehensive overview of the use of the veterans' preference process in federal hiring, including a close examination of the current process, the impact on agencies' ability to hire non-veteran applicants, and the impact on science, technology, engineering and math positions, among other provisions.<sup>3</sup> FMA members have voiced concerns with the current veterans' preference policy, favoring the original language limiting veterans' preference to the first appointment, and welcomes this study, due on May 1, 2017.

#### **PERFORMANCE MANAGEMENT AND TERMINATION**

FMA makes the following recommendations based on our belief that providing talented managers with fair benefits and compensation, as well as the authority and flexibility to make tough decisions, is the key to managing a successful and strong civil service.

#### **Performance Incentives**

Pay-for-performance is a system that businesses in the private sector have utilized successfully for a long time. FMA believes the General Schedule (GS) should be utilized as a stepping stone to create a more evolved system that focuses on pay-for-performance and reflects the needs of the present federal workforce. While the common denominator of all departments and agencies is providing exceptional service to the American people, the federal government is made up of the equivalent of many different businesses and industries. Departments and agencies must have maximum flexibility and ability to

<sup>2</sup> <http://www.govexec.com/federal-news/fedblog/2016/06/george-voinovich-rare-politician-who-fought-better-management/129036/>

<sup>3</sup> <https://www.gpo.gov/fdsys/pkg/CRPT-114hrpt840/pdf/CRPT-114hrpt840.pdf>



compete with the private sector to attract the best and the brightest men and women to answer the call of public service.

Transparency, fairness, and objectivity need to be core elements that comprise any personnel system. FMA urges a departure from the rigid approach of the current GS, to a classification and pay system that reflects the diverse missions of agencies across the federal government. The current GS system of classification and pay setting should be revised to more easily accommodate changing missions. The system would function more efficiently by allowing flexibility to significantly change positions, as needed, to accomplish the mission of the agency.

The current system promotes a workforce based on longevity rather than performance. The highest performing employees should be rewarded with the highest rates of pay; those employees who fall below the curve in terms of overall performance should not be rewarded at the same level. Where is the incentive in performing better than your colleagues when little is done to recognize additional efforts? Incentives to reward top performers would aid in retention and allow the federal government to be more competitive with the private sector.

If Congress considers making changes to the GS or develops a new pay system or performance review method, we recommend the following be included in any effort:

- maintenance of current benefits for active and retired employees;
- no loss of pay or position for any current employee solely as a result of the implementation of the new system(s);
- merit principles preventing prohibited personnel practices as well as an adherence to current whistleblower protections;
- continued use of the Merit Systems Protection Board (MSPB), an independent 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 properly funded 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.

A shift in the culture of any organization cannot occur without an interactive, ongoing training process that brings together the managers responsible for implementing the personnel system and the employees they supervise. Implementation trumps design as the biggest factor in a system's ultimate success or failure. With the upheaval any major change brings to a new pay for performance system, it is necessary to remain committed to the change long enough to let it work.





## Termination

Recently, allegations of misconduct plagued the federal workforce and scandals erupted in several federal departments and agencies. This behavior does not reflect the federal workforce as a whole, and FMA has long argued the need to better address poor performers. Managers must be able to address both misconduct and poor performance, however many managers currently feel it is easier to keep a poor performer and deal with their subpar performance than take the steps to document and convince the agency to remove. A clear, straight-forward process should be available to every manager to remove confusion and frustration from the termination process. It is necessary to have protections and due process in place to prevent members of the civil service from being terminated on a whim or in response to outside pressures. The mission of the MSPB is to protect the merit system and ensure the federal workforce is capable of providing excellent service to the American public. FMA's concern lies not with the MSPB process, but with many agencies that practice risk avoidance rather than risk management when it comes to problem employees.

A federal employee's right to due process is fundamental and constitutional, and Congress must not take steps to eliminate or erode this right. In *Cleveland Board of Education v. Loudermill*, 470 U.S. 532 (1985), the Supreme Court held that the Constitution guarantees that if there must be a cause to remove a public employee from his or her job, then there is automatically a due process requirement to establish that the cause has been met.

Several iterations of Veterans Affairs reform legislation considered in the 114<sup>th</sup> Congress would have significantly eroded due process and appeals rights for all federal employees in that department. The legislation sought to dramatically reduce an employee's ability to appeal a decision that would deprive that employee of their job and salary. Preventing an employee from understanding charges against them or preparing a meaningful defense undermines an employee's due process and is wrong. At the same time, limiting the number of days to process an action may result in findings of legal insufficiency and no action being taken, rather than taking the necessary time to resolve any documentary issues. Further, legislation introduced in the House of Representatives would specifically make all new federal employees at-will employees, essentially returning public service to a spoils system where the civil service is politicized.

This does not mean every employee should be retained. As with any population, there may be good and bad employees, and employees who are not suited for the position they occupy. Managers have an obligation to ensure that employees are terminated for the right reasons: unacceptable conduct or performance that cannot be corrected in another way.

The current system, as written in statute, is not broken. However, it is not always being used as it was intended. Current statute only requires a minimum 30 day notice period from the date the proposal to remove or demote is issued to the employee until the effective date of action. This is not an unreasonable period of time to decide whether or not to terminate an individual's employment. According to the MSPB, more than 77,000 full-time, permanent, federal employees were terminated as a result of performance or conduct issues between Fiscal Year 2000 and FY 2014. FMA opposes legislative efforts to arbitrarily reduce or eliminate due process for federal employees across the government.



## Administrative Leave Reform

FMA appreciates the bipartisan efforts this committee took regarding the use of administrative leave, culminating in reform being included in the NDAA.<sup>4</sup> Administrative leave reform is an excellent example of Congress working together on meaningful, commonsense legislation that helps managers provide a more efficient and effective workplace. The Administrative Leave Act establishes clear timelines, definitions, and new leave categories, which will bring much-needed uniformity, transparency, and accountability to federal agencies, while reducing waste in the federal government.

## Training

Current law requires agencies to establish training programs for managers on topics including: addressing poor performing employees, mentoring, and conducting accurate performance appraisals. However, there is no accountability to ensure managers participate, and during times of strained budgets, training is often viewed as a secondary expense and is typically the first program to meet the chopping block when cuts are made.

Many employees are promoted to management roles based on their technical skills rather than their ability to lead, especially under the GS system where pay is based on promotion through the various levels and steps. Therefore, it is not surprising that many employees note their supervisors' managerial skills lag behind their technical skills. An agency's ability to meet its mission directly correlates to the quality of workforce management. There is a clear need for training if a manager is to be fully successful. If an agency promotes an individual to managerial status based on technical prowess but then fails to develop the individual's supervisory skills, that agency severely jeopardizes its capability to deliver the level of service the American public expects and does a disservice to both the manager and to the employees supervised by that inadequately developed manager. For this reason, FMA supports the creation of a dual-track system, providing employees with superior technical prowess an opportunity to advance in their career, without taking on supervisory responsibilities.

The development of managerial skills is one of the greatest investments an agency can make, both in terms of productivity gains and the retention of valuable employees. This cannot be done solely by looking at a computer screen. A supervisor's ability to effectively monitor his or her workforce while resolving internal conflicts is instrumental in forming an appealing work environment. Whether serving as a mediator between upper-level managers and their staff or clearly defining organizational goals, well-trained federal managers serve a vital role in the continuity of operations on a day-to-day basis and are an essential component in ensuring the federal government retains a workforce that espouses a strong work ethic and commitment to the nation's wellbeing.

Management training can no longer be viewed as an expendable program. For federal agencies to remain competitive, effective and efficient, these programs need to be made mandatory. By establishing a mandatory initial training program and ongoing training series, the entire workforce benefits from enhanced supervision and improved leadership. Funding these programs in the appropriations process is essential to preventing training dollars from being cut when budgets are tight. Properly trained managers

<sup>4</sup> <https://www.gpo.gov/fdsys/pkg/CRPT-114hrpt840/pdf/CRPT-114hrpt840.pdf>



will also lead to fewer employee grievances, both formal and informal. When managers are properly trained to do the job for which they have been hired, everyone wins.

FMA calls for the introduction of legislation that requires agencies to provide interactive, instructor-based training on management topics ranging from mentorship and career development to hostile work environments and poor performers. After the initial supervisory training, which would take place within one year of promotion, supervisors would be required to receive ongoing training once every three years thereafter. In addition, the measure should include an accountability provision to establish competency standards to ensure the training is effective. FMA endorsed the Federal Supervisor Training Act of 2016 (S. 3528), offered by subcommittee ranking member Heidi Heitkamp (D-ND) in the 114<sup>th</sup> Congress, which addressed many of these issues, and urges Congress to consider similar legislation in the 115<sup>th</sup> Congress.

#### **Probationary Period**

Initial and supervisory probation periods were originally intended to be an extension of the hiring process. Probation is a time to evaluate the employee or manager and determine whether they are suited, not just for the initial position, but also for federal service. Some career fields are so complex that it takes more than one year to properly train an entry-level employee. FMA advocates extending the probationary period. This would benefit both the government and employees by allowing supervisors to make decisions based on the employees' performance as fully trained employees – not just guessing at how they will perform after the training is completed.

Many federal agencies employ labor forces requiring specialized, technical skills to carry out their duties. New employees must often master broad and complex policies and procedures to meet their agencies' missions, necessitating several months of formal training followed by long periods of on-the-job instruction. To ensure each manager and supervisor oversees a workforce that exhibits the abilities required to execute its objectives, lawmakers must afford federal agencies the latitude to extend the probationary period beyond the current length of only one year from date of hire.

In occupations where training takes substantial time, supervisors may only have a few months of work to judge employees' performance. An extended period would allow supervisors to fully assess employees' abilities. The current economic environment requires agencies to take on greater responsibility while receiving fewer resources, and it is critical that members of the federal workforce prove they are up to the challenge of serving the interests of the American public.

Not only does this affect managers, but also puts an unfair burden on the employee. These jobs are difficult and complex and it takes some people additional time to learn the job. Managers are placed in the difficult position of having to decide whether or not to keep employees when they may not have had sufficient time to evaluate them. There is an incentive to dismiss the employee prior to the expiration of the one-year window even though the employee may not have had sufficient time to show that they could master the job.

Members of Congress saw fit to extend the probationary period to two years for Department of Defense employees as part of the 2016 National Defense Authorization Act. In January 2016, the House Oversight and Government Reform Committee approved legislation, H.R. 3023, that would extend the



probationary period to two years following completion of training. FMA sees these reform efforts as steps in the right direction, beyond the one-year period. FMA urges Congress to bring other agencies in line with the Department of Defense, the largest employer in the country, and develop a probationary period that recognizes the complexities of federal agencies' training periods.

#### **Wounded Warriors Federal Leave Act**

FMA remains grateful to the Senate Homeland Security and Governmental Affairs Committee in the 114<sup>th</sup> Congress for considering and shepherding the Wounded Warriors Federal Leave Act (P.L. 114-75) into law. The legislation created disabled veteran leave, a new leave category that provides additional leave to new hires in the federal government who need time to attend medical appointments related to service-connected disabilities. P.L. 114-75 covers approximately 85 percent of the federal workforce.

FMA endorsed legislation that extended disabled veteran leave to employees at the Federal Aviation Administration, and further calls for legislation to provide disabled veteran leave to all new hires with a service connected disability rating of thirty percent or greater who remain uncovered.

#### **CONCLUSION**

The federal civil service should be the model employer that other employers strive to emulate. We should be such an attractive employer that we have young people lining up to compete for positions as their first choices instead of looking elsewhere. This hearing is an important step toward determining what Congress can and should do to empower managers and give them the tools they need to increase both the efficiency and cost-effectiveness of the federal government. Thank you for the opportunity to share some of FMA's views with the Subcommittee. I am eager to answer any questions you may have.



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TESTIMONY

Of

BILL VALDEZ

President

SENIOR EXECUTIVES ASSOCIATION

Before the

SUBCOMMITTEE ON REGULATORY AFFAIRS AND FEDERAL MANAGEMENT  
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS  
U.S. SENATE

On

"EMPOWERING MANAGERS: IDEAS FOR A MORE EFFECTIVE FEDERAL WORKFORCE"

February 9, 2017

Chairman Lankford, Ranking Member Heitkamp, and Members of the Subcommittee:

Thank you for the opportunity to testify before the Subcommittee on Regulatory Affairs and Federal Management's hearing "Empowering Managers: Ideas for a More Effective Federal Workforce." I appreciate the Subcommittee's focus on identifying common sense federal government and workforce reforms that will enable career executives and managers to better lead their organizations to fulfil their agencies' congressionally authorized missions for the taxpaying American public.

I became President of the Senior Executives Association (SEA) in September 2016. SEA is a nonprofit professional membership association that formed in 1980, shortly after the passage of the Civil Service Reform Act of 1978 (P.L. 95-454). Since that time SEA has represented the interests and perspective of aspiring, current, and former career federal executives in government, including those in Senior Executive Service (SES) and equivalent positions, such as Senior Level (SL) and Scientific and Professional (ST) positions. SEA has long promoted policies to ensure an efficient and effective government; in doing so, SEA has advocated for the critical importance of a strong and empowered senior career leadership corps.

The challenges facing government today are well studied and well known. In 1989 the National Commission on the Public Service warned of a "quiet crisis" in the federal public service.<sup>1</sup> The Commission issued another report in 2003, then calling the matter "urgent business for America"<sup>2</sup> on similar issues that had been allowed to fester largely unaddressed. Reports published by the Government Accountability Office (GAO), Merit Systems Protection Board (MSPB), agency Offices of Inspector General (OIG) and others highlight with frequency deficiencies and opportunities for improvement. In a nutshell, the government needs an overhaul of its personnel systems and management philosophy to ensure it can attract and retain the talent needed to accomplish agency missions in the 21<sup>st</sup> century.

To accomplish a successful transformation, government needs to invest in the development and continuous education of its federal workforce. With the 40<sup>th</sup> anniversary of the CSRA upcoming, now is an opportune time for Congress and stakeholders to act boldly to reform the federal enterprise and the public service for the 21<sup>st</sup> century. All federal employees share the desire to have a better functioning government. Our SES, SL, ST and senior GS members are dedicated leaders in delivering agency missions and know firsthand what works and what may need to be changed. SEA and its members stand ready to provide advice and perspective to inform this critical transformation, and to carry the torch leading this transformation in the years ahead.

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<sup>1</sup> The Report of the National Commission on the Public Service. (1989). *Leadership for America: Rebuilding the Public Service*. Washington, DC. [http://www.washingtonpost.com/wp-ry/oppin2w/documents/Leadership\\_for\\_America\\_Rebuilding\\_the\\_Public\\_Service.pdf](http://www.washingtonpost.com/wp-ry/oppin2w/documents/Leadership_for_America_Rebuilding_the_Public_Service.pdf).

<sup>2</sup> The Report of the National Commission on the Public Service. (2003). *Urgent Business for America: Revitalizing the Federal Government for the 21st Century*. Washington, DC. <https://www.crookings.edu/wp-content/uploads/2016/06/01governance.pdf>.

### **Brief Discussion of Challenges**

For any solutions pursued by or for federal leaders to be most effective, Congress will need to play a role in fostering an environment that is conducive to good management. Two areas in particular call for attention. The first is chronic budget uncertainty. The second is the treatment and respect afforded to federal public servants.

According to the Congressional Research Service (CRS), in only four years since 1977 has Congress passed all appropriations bills on time.<sup>3</sup> The resulting reliance on continuing resolutions (CRs), is relevant to a discussion regarding the efficiency and effectiveness of the federal workforce because, according to a GAO analysis,<sup>4</sup> budget uncertainty negatively effects agency operations, hinders planning and investment, and results in suboptimal allocations of resources.

At a time of ballooning national deficit when Congress is attempting to curtail wasteful government spending, a goal SEA lauds, the act of relying on CRs in-and-of-itself is creating waste. Because of the uncertainty, agency staff must dedicate inordinate amounts of time to budgeting and re-budgeting for multiple scenarios and contingencies. These resources could be better utilized implementing the laws and programs which Congress has authorized, and developing the agency workforce to meet current and future requirements.<sup>5</sup> Ongoing discussions in Congress about reforming the current budget process are welcomed. SEA supports efforts to bring this conversation to thoughtful conclusion in the near term, for example through approval of bipartisan proposals for biennial budgeting (S. 306; H.R. 1065).

As the board of directors for the federal government, it is important that Congress fulfill its fiduciary responsibilities to timely provide agencies with budgets. Not only does this uncertainty directly impact vital mission functions, it adversely impacts the process of strategic human capital planning and talent management. GAO's research<sup>6</sup> has "consistently shown the direct link between effective strategic human capital management and successful organizational performance." Not being sure whether your organization will be fully funded from year to year compounds the incapacity to build a strategic workforce plan with defined talent management processes, because agencies are unsure they will be able to strategically fill vacancies. It would be helpful to agencies if Congress could provide general targets for future year budgets to aid workforce planning.

As an employer, the inability of the government to provide predictable employment opportunities and to expeditiously fill vacancies also challenges the ability of agencies to meet

<sup>3</sup> Congressional Research Service, (2012). *Continuing Resolutions: Overview of Components and Recent Practices, R42647*. Washington, DC: James Saturno and Jessica Tollestrup. <https://www.fas.org/sgp/crs/misc/R42647.pdf>.

<sup>4</sup> Government Accountability Office. (2013). *Effects of Budget Uncertainty from Continuing Resolutions on Agency Operations, GAO-13-464T*. Washington, DC. <http://www.gao.gov/products/GAO-13-464T>.

<sup>5</sup> Samuelsohn, Darren. (2015, October 21). Welcome to CR Hell. *POLITICO*. <http://www.politico.com/agenda/story/2015/10/congress-federal-budget-continuing-resolution-000270>.

<sup>6</sup> Government Accountability Office. (2015). *Update on Strategic Management Challenges for the 21st Century, GAO-15-619T*. Washington, DC. <http://www.gao.gov/products/GAO-15-619T>.

their mission. Compounding this challenge is the uncertainty around the viability and nobility of federal employment and public service careers. SEA believes it is critical that Congress not engage in a race to the bottom in terms of compensation and benefits the government would be able to offer prospective employees. Promises made to current employees and annuitants should be kept. It is also important to point out that over a third of new hires in recent years, and nearly a third of the entire federal workforce, are veterans who have honorably served our nation and want to continue their service to the nation in federal employment.<sup>7</sup>

The predominant focus by Congress in recent years on negative and punitive legislative proposals relating to the federal workforce – scaling back or eliminating due process protections that guard against politically motivated personnel actions, setting higher contributions from employees for their pensions and health benefits absent increases in benefits, clawing back earned pay and benefits, discussing eliminating public service loan forgiveness programs, reducing the number of agency employees absent a business case for doing so, proposing across-the-board attrition-based restrictions on hiring, to name a few – coupled with negative congressional rhetoric about the workforce has created an environment in which many talented recent graduates and other citizens are not considering the federal government for employment. In 2014, only 7 percent of new hires to the federal government were under the age of 25, compared to 23 percent in the private sector, according to the Partnership for Public Service.<sup>8</sup>

Furthermore, punitive legislative proposals that have been approved, such as the Veterans Access, Choice and Accountability Act of 2014 (P.L. 113-146) that made it easier to terminate or discipline VA senior executives for misconduct or performance have not resulted in improved management of agency personnel or operations. In fact, the VA is struggling to attract and retain the best senior leaders to lead VA Medical Centers – many of these roles are still filled with interim or acting directors – and high-caliber GS-14 and 15 employees are hesitant or unwilling to enter the executive ranks at VA. As Congress considers more “accountability” proposals targeting the VA workforce,<sup>9</sup> and the workforce in general, it should heed the lessons discovered in a SEA survey of VA executives in early 2016.<sup>10</sup> A 2015 SEA survey of career leaders found the “gotcha” mentality presently surrounding the federal workforce was challenging the government’s ability to recruit and retain the most qualified leaders.<sup>11</sup>

<sup>7</sup> Office of Personnel Management. (2016). *Employment of Veterans in the Federal Executive Branch, Fiscal Year 2015*. Washington, DC. [https://www.fedfigs.gov/hrp/hrp/reports/EmploymentOfVets\\_FY15.pdf](https://www.fedfigs.gov/hrp/hrp/reports/EmploymentOfVets_FY15.pdf).

<sup>8</sup> Partnership for Public Service. (2014). *Fed Figures*. Washington, DC.

<http://ourpublicservice.org/publications/download.php?id=100>

<sup>9</sup> Katz, Eric. (2017, February 23). VA Secretary Says Department is Working Closely with Congress on Firing Bill. *Government Executive*. <http://www.govexec.com/management/2017/02/va-secretary-says-sts-working-closely-congress-firing-bill/135671/>.

<sup>10</sup> Senior Executives Association. (2016). *Senior Executives at the Department of Veterans Affairs – A Survey of VA Leaders on the Proposal to Move Career Executives from Title 5 to Title 38*. Washington, DC. [http://seniorexecs.org/images/VA\\_SESurveyReportTitle5toTitle38.pdf](http://seniorexecs.org/images/VA_SESurveyReportTitle5toTitle38.pdf).

<sup>11</sup> Senior Executives Association. (2015). *Recruiting Qualified Career Senior Leadership: How Are We Doing?* Washington, DC. <http://seniorexecs.org/images/RecruitingQualifiedCareerSeniorLeadership-HowAreWeDoing.pdf>.



Beyond harming recruitment and retention, negative rhetoric about the workforce also has a direct cost through decreased employee engagement. Gallup research estimated a cost to the government of \$18 billion in 2014 due to employee disengagement.<sup>12</sup> That cost could be eliminated if we respect and invest in the federal workforce and we encourage and empower employees from the front lines to the C-suite to work together to identify inefficiencies and collaboratively improve agency operations. This occurred at the Portsmouth Naval Shipyard, where management and labor came together to craft a “Declaration of Excellence,” that has aligned all employees behind a common vision and which has increased morale, productivity and efficiency.<sup>13</sup>

An environment must be created in which serving the public in federal service is seen as a realistic and attractive career option, even if not for a lifetime career. SEA strives to restore the notion of honor and pride around public service that President Kennedy harkened to in his 1961 inaugural address when he said citizens should “ask not what your country can do for you — ask what you can do for your country,” but we need help from Members of Congress.

#### **Examining Potential Solutions to Issues Affecting Each Stage of the Employee Lifecycle**

The following sections contain perspective and proposals on issues affecting each stage of the employee lifecycle. This structure was chosen because it provides a menu of options to address specific issues related to the workforce, but also conveys the interrelatedness of these options in forming an employee’s career experience. Just fixing one thing or tinkering around the edges won’t necessarily make the whole system work better. The current system is too complex and unwieldy and needs to be streamlined and updated to provide a modern foundation for a 21<sup>st</sup> century government. That is why SEA supports comprehensive civil service and government reform legislation.

#### **Recruitment**

The government is failing to compete in the global war for talent. Agencies need better tools and processes to recruit and hire. Few agencies have a defined talent acquisition and talent management process for all employees at all levels. According to a 2015 Vanderbilt University survey, 42% of senior executives said they could not recruit top job candidates.<sup>14</sup> Agencies and managers need better recruiting tools, and improved recruiting resources, beyond the posting of jobs on USAJobs.

Agencies need more direct hiring authority and the ability to offer competitive compensation to recent graduates, particularly those with mission critical skills. For example, last summer DHS

<sup>12</sup> Ander, Steve & Swift, Art. (2014, December 16). U.S. Federal Employees Less Engaged Than the Rest. *Gallup*. <http://www.gallup.com/poll/180206/federal-employees-less-engaged-rest.aspx>.

<sup>13</sup> McDermott, Deborah. (2014, April 20). Revolution in the works at shipyard. *SeaCoastOnline.com*. <http://www.seacoastonline.com/article/20140420/NEWS/404200344>.

<sup>14</sup> Patterson, Jim. (2015, July 16). Vanderbilt researcher: It's time for civil service reform. *Research News at Vanderbilt*. Vanderbilt University. <https://news.vanderbilt.edu/2015/07/16/vanderbilt-researcher-it%E2%80%99s-time-for-civil-service-reform/>.

was able to hire 370 new cyber security and technology professionals with on-the-spot job offers during a two-day summer job fair. Recent authorities granted by Congress for hiring individuals with cybersecurity expertise at DOD and DHS can serve as a model for government-wide hiring reform. Authorities to allow individuals to more easily come into and out of government service, and to benefit from added experience upon reentering the government, should also be pursued. The best employees and those with in-demand skills are not waiting 80-100 days for a job offer from the government. They might not work for a career in government but they might for a few years. The government needs fresh thinking constantly being injected into the workforce.

Agencies also need to do more to cultivate and develop their HR talent, and to transform those professionals and their role within organizations from largely transactional and process oriented to being strategic partners for management. Jeff Neal, a former Department of Homeland Security (DHS) Chief Human Capital Officer (CHCO), has written extensively on the need to retool federal HR for the 21<sup>st</sup> century.<sup>15 16</sup>

### Hiring

A 2015 MSPB report found that the principle of fair and open competition for federal jobs is being challenged by a proliferation of hiring authorities, overuse of restrictive hiring authorities and practices, potential abuse of hiring authorities by some managers, and some HR staff prioritizing internal processes over providing efficient customer service to job applicants.<sup>17</sup> While agencies are unique, the sprawling morass of numerous authorities causes confusion for hiring managers and HR specialists and inhibits effective oversight.<sup>18</sup> Congress can make it easier for both applicants and agencies alike to understand and better be able to navigate the hiring process. To understand lessons learned, Congress may also consider an evaluation of the effectiveness of OPM's recent *Hiring Excellence* campaign which sought to better educate managers and HR professionals about the hiring tools agencies already have available and how to best use them.

Congress should explore the role of competitive examining in federal hiring, and which authorities need to be streamlined and consolidated legislatively versus which can be accomplished administratively by OPM and agencies. When it comes to hiring authorities and flexibilities, Congress needs to answer whether departments and agencies should be considered as constituting a single federal enterprise or as many separate entities.

<sup>15</sup> Neal, Jeff. (2016, April 28). Fixing Federal HR Begins with Staffing. *ChiefHRO*.  
<https://chiefhro.com/2016/09/01/fixing-federal-hr-begins-with-staffing/>.

<sup>16</sup> Neal, Jeff. (2016, September 1). Federal HR is Mission Critical. Is It Mission Capable? *ChiefHRO*.  
<https://chiefhro.com/2016/04/28/can-we-fix-hr/>.

<sup>17</sup> Merit Systems Protection Board. (2015). The Impact of Recruitment Strategy on Fair and Open Competition for Federal Jobs. Washington, DC.

<http://www.mspb.gov/netsrch/viewdocs.aspx?documentid=1116751&version=1113211>.

<sup>18</sup> Government Accountability Office. (2016). Federal Hiring: OPM Needs to Improve Management and Oversight of Hiring Authorities. Washington, DC. <http://www.gao.gov/products/GAO-16-511>.

One tool that managers will benefit from is implementation of the Competitive Service Act (P.L. 114-137). Hiring managers will greatly benefit from the ability to review vetted job candidates who have clearly expressed an interest in federal employment for similar positions. Congress should encourage agencies to operationalize this new authority in a common sense way that adds value. Managers should not have to wait for multiple years for guiding regulation, as they did following the passage of phased retirement authority.

Congress should continue examining current federal recruitment and hiring practices. Concerns have been raised in recent years by many about the USAJobs platform, the state of the Presidential Management Fellows (PMF) program<sup>19</sup>, the Pathways Program that eliminated old internship and recent graduate programs<sup>20</sup>, and the time it takes between applying for a job and receiving a decision, to name a few. The varied ways agencies handle security and suitability adjudication also can slow down the hiring process, and opportunities to have common forms or processes should be further explored. All of these areas are ripe for improvement.

#### **Onboarding New Employees**

Agency processes for onboarding and orienting new employees to the organization need to be strengthened. Usually the selected employee gets an orientation/onboarding of a few days to a few weeks and that mostly focuses on process not on how to succeed in the agency's culture. New employees often need someone with institutional knowledge to help guide their career decisions. Managers can play a key role by developing coaching and mentor/protégé relationships with subordinates and superiors. Such relationships are commonly required in successful private sector organizations, as they facilitate and encourage personal growth and continuous professional improvement. Some agencies already have successful mentoring programs in place. In 2016 OPM rolled out an improved model for SES onboarding that could serve as a model to improve government employee onboarding in general.<sup>21</sup>

#### **Probationary Period**

Across the government, most employees are subject to a one-year probationary period upon starting their jobs. During this time they are in an "at-will" status and can be released by the government from employment. SEA supports legislation extending the probationary period for positions that require extensive training.

For example, air traffic controllers and some positions with the Social Security Administration (SSA) and Internal Revenue Service (IRS) have extended training periods, significant portions of

<sup>19</sup> Fox, Tom. (2014, November 17). Critiques of the Presidential Management Fellows Program. *The Washington Post*. <http://www.washingtonpost.com/blogs/on-leadership/wp/2014/11/17/critiques-of-the-presidential-management-fellows-program/>.

<sup>20</sup> FEDmanager. (2015, March 11). SSA Managers Group Suggests Improvements for Pathways Program. *FEDmanager*. <http://www.fedmanager.com/news/2015/03/11/sssa-improvements-for-pathways-program>.

<sup>21</sup> Office of Personnel Management. (2014). SES Onboarding Enhanced Framework. Washington, DC. [https://www.opm.gov/policy-data-oversight/docs/learning/OPM-training/SES%20Onboarding%20Pilot/SES%20Onboarding%20Enhanced%20Framework\\_webv1.pdf](https://www.opm.gov/policy-data-oversight/docs/learning/OPM-training/SES%20Onboarding%20Pilot/SES%20Onboarding%20Enhanced%20Framework_webv1.pdf).

which occur outside of the employee's home office, before achieving journeyman status. Since managers often do not work extensively with those employees during the first year and cannot fully assess their on the job performance, it is reasonable and most fair to both the employee and the manager to extend the probationary period or begin it upon completion of training. Furthermore, managers should have to proactively certify that an employee has cleared the probationary period, and should be held accountable for doing so.

To the extent that it is not being fully utilized, and research by GAO and MSPB demonstrate that the probationary period is not being used to its full potential<sup>22,23</sup> – for both new hires as well as new managers and executives – that is an issue of training and understanding how to use the probationary period.<sup>24</sup> Managers must be held accountable for properly using the tools they have at their disposal.

#### **Employee Training and Development**

No successful major employer neglects developing its workforce. Yet the reality in government, especially in nearly every non-defense civilian agency, resources for training and travel are often the first to be slashed when budgets are tight, denying members of the workforce critical opportunities to refresh skills and keep them current. To be successful in the long term, agency budgets must dedicate training and professional development funds that cannot be transferred. Training and development should be linked to employee performance and the agency's talent management strategy. Because they often cannot accomplish all the mission requirements and provide adequate training within their budgets, agencies are unable to cultivate a workforce with necessary skills and expeditiously close skills gaps. This can have dramatic future impacts as the learning deficit only gets deeper.

Development should also include experiential learning such as rotations and details which help employees grow and improve, especially in the area of leadership.<sup>25</sup> It is imperative that the prevailing perspective be that investment in federal civilian employees be seen as not purely a cost, but rather as an investment, such as the development of members of the armed services is understood to be.

<sup>22</sup> Government Accountability Office. (2015). Improved Supervision and Better Use of Probationary Periods Are Needed to Address Substandard Employee Performance. Washington, DC.

<http://www.gao.gov/assets/670/668339.pdf>.

<sup>23</sup> Merit Systems Protection Board. (2015). Adverse Actions: The Rules and the Reality. Washington, DC: Office of Policy and Evaluation.

<http://www.mspb.gov/MSPDCSARCH/viewdocs.aspx?documentid=1205509&version=1210224&application=ACROBAT>.

<sup>24</sup> Merit Systems Protection Board. (2005). The Probationary Period: A Critical Assessment Opportunity. Washington, DC.

<http://www.mspb.gov/MSPDCSARCH/viewdocs.aspx?documentid=244555&version=224774&application=ACROBAT>.

<sup>25</sup> Derler, Andrea, Abbatiello, Anthony & Garr, Stacia. (2017, January 23). Bigger pond, Bigger fish: Five ways to nurture developing leaders in an ecosystem for growth. Deloitte University Press. <http://dupr.deloitte.com/dupr-us-en/deloitte-review/issue-10/developing-leaders-networks-of-opportunities.html>.

### Talent Management

A recent survey of federal leaders identified gaps in agencies talent management strategies.<sup>26</sup> As missions of federal agencies evolve and technology involved in performing functions changes, there is a critical need to equip organizations within the government with meaningful data (demographic, attrition, skills inventories, retirement trends, training needs assessments, etc.), effective methods (succession management plans, critical skills forecasts, workforce planning assessments, etc.) and to develop training for agency officials on how to routinely and successfully utilize such data and methods to manage their workforces just as they do their budgets and other resources.

This is an area where OPM and OMB need to exert leadership, and in consultation with professional associations (such as SEA), good government groups and agency CHCOs, CFOs, etc. develop tools, templates and best practices to aid agencies in what is likely to be an era of tight resources and competing national priorities. Once the tools are developed agencies could use the tools to produce workforce management plans that are tied to budget requests and are set up on a scorecard type basis (a potential model is the stoplight Management Scorecard used by the President George W. Bush's administration) and given broad visibility and use in allocating federal resources and in developing recruitment, hiring, assignment, training, succession and mobility plans within agencies. This is a function performed by manpower offices in the armed services, covering both active duty and civilians, yet no comparable analog exists in most civilian federal agencies. Absent statutory directive and authorization, it is unlikely all agencies will invest resources in establishing robust talent management systems, although some agencies do have such systems. GAO has listed human capital management as a high risk issue since 2001.

The general lack of robust capability in this area across federal agencies may make it difficult for OPM and OMB to develop within 90 days a data-driven attrition plan for the workforce, pursuant to President Trump's memorandum enacting a hiring freeze.<sup>27</sup> GAO's duplication report may provide a useful proxy for OPM, OMB, and agencies in identifying smart areas to apply attrition and consolidation across the federal enterprise. That the President's hiring freeze is temporary in nature to provide time for development of the workforce plan is a positive sign, as GAO's research found that government-wide hiring freezes proved ineffective in managing federal employment.<sup>28</sup>

<sup>26</sup> Management Concepts. (2017). Unleveraged Talent: Exploring Gaps in Federal Workforce Management. <http://leanmanagementconcept.com/idea4Gaps>.

<sup>27</sup> The White House, (2017). Presidential Memorandum Regarding the Hiring Freeze. Washington, DC. <https://www.whitehouse.gov/the-press-office/2017/01/23/presidential-memorandum-regarding-hiring-freeze>.

<sup>28</sup> Government Accountability Office. (1982). Recent Government-Wide Hiring Freezes Prove Ineffective in Managing Federal Employment, FPCD-82-21. Washington, DC. <http://www.gao.gov/products/FPCD-82-21>.

Regarding the hiring freeze itself, the guidance memo, M-17-18<sup>29</sup>, issued by OMB and OPM, has been helpful to agencies in interpreting the original Presidential Memorandum. However, even if temporary, SEA has concerns that the freeze, coupled with negative views of federal workers in recent years in Congress and the press, will have a chilling effect on the ability of the federal government to attract and recruit talent it needs, particularly from veterans, millennials including students graduating college this spring, and to fill mission critical skills gaps.

Compounding this concern is the uncertainty around the viability and nobility of federal employment and public service careers. Rhetoric from Members that federal employees “become where they are career bureaucrats who soak of the lifeblood of the American people,” will not help the government’s recruitment or retention efforts.<sup>30</sup>

#### **Supervisor Selection, Training, and Development**

Supervisors are the critical link between management and employees. For this reason, the supervisor’s proficiency in both technical and leadership skills is important for agency success. Effective supervisors increase employee motivation, communicate expectations, and ultimately increase organizational performance. The MSPB highlighted the importance of first-level supervisors in a 2010 report.<sup>31</sup>

The manner in which the government selects which employees to take on supervisory roles is in dire need of an update. Under the General Schedule, an employee often must take on supervisory duties in order to ascend the ranks. Yet there is no assessment of whether that employee, who may be an excellent technician or subject matter expert (SME), has the capacity to serve as a supervisor and leader. Federal employees require career ladders that let them chose whether they prefer to remain a SME or whether they want to manage, and both options should present opportunities for career advancement and growth. This also applies to determining whether a senior employee should be SES, SL/ST, or equivalent.

Research published by Gallup<sup>32</sup> highlights the importance of selecting the correct employee for supervisory and managerial duties in the first place. One in ten employees have the unique combination of skills and perspective to be a manager, while an additional two in ten can be taught to be a great manager. That means seven out of ten employees, who may be great SMEs, are likely not cut out for supervising employees. Ensuring the government develops and

<sup>29</sup> Office of Management and Budget and Office of Personnel Management. (2017). Federal Civilian Hiring Freeze Guidance, M-17-18. Washington, DC. <https://www.chcoc.gov/content/federal-civilian-hiring-freeze-guidance>.

<sup>30</sup> Katz, Eric. (2017, February 2). Congressman: Career Feds 'Soak Off the Lifeblood of the American People. *Government Executive*. <http://www.govexec.com/federal-news/fedblog/2017/02/congressman-career-feds-soak-lifeblood-american-people/135115/>.

<sup>31</sup> “Merit Systems Protection Board. (2010). A Call to Action: Improving First-Level Supervision of Federal Employees. Washington, DC. <http://www.mspb.gov/nrssearch/viewdocs.aspx?docnum=516534&version=517986&application=ACROBAT>.

<sup>32</sup> Beck, Randall & Harter, Jim. (2014, March 25). Why Great Managers Are So Rare. *Gallup*. <http://www.gallup.com/businessjournal/167975/why-great-managers-rare.aspx>.

selects the appropriate individuals for supervisory roles will produce an improved management talent pipeline, with the most adept of those leaders eventually rising to the SES ranks.

Meanwhile, more must be done to ensure that supervisors, managers, and executives are provided the training and development necessary to oversee the workforce. A 2015 MSPB report highlighted the importance and benefits of investing in executive leaders.<sup>33</sup> Nearly every MSPB, GAO, and Inspector General report cite recommendations for training and development. Despite directives from OPM and laws passed by Congress (i.e. P.L. 108-411) mandating agencies provide initial and ongoing supervisor training and have succession management plans, it is clear that there is more that could be done. SEA supports legislation to strengthen supervisor training, such as Senator Heitkamp's Federal Supervisor Training Act. As Congress seeks to strengthen supervisor training and development, along with training for all employees, it should also evaluate existing training mandates and the effectiveness of such training.

SEA has long advocated for mandatory supervisor training. For manager training to be most effective, five criteria should be met: 1) Every new supervisor and manager in the federal government must receive mandatory supervisory training within one year of their initial appointment; 2) Supervisors and managers should receive updated training every three years after the initial training; 3) Training of managers must become a priority within in each federal agency and department; 4) A specific authorization of federal funds would need to be made to underwrite the cost of training that is in addition to money currently allocated to each agency and department for personnel costs; and, 5) Managers should be afforded participation in processes that arise from constructive feedback and evaluations required of them. History has demonstrated that the ability of managers to effectively implement change, for example, implementing new performance management and appraisal systems, is dependent on effective training.

#### **Leadership**

SEA believes a focus on the quality of leadership is a key missing ingredient in civilian government. Regardless of what level an employee is on an organizational chart, they have the potential to be a leader. The government must embrace and cultivate leadership at all levels, as does the military. One must be able to lead themselves before they lead a team, before they lead an organization. Agencies and the federal enterprise need to invest in comprehensive talent development, using assessment and evaluation to select and promote leaders. Too frequently, the misapplication of the merit principles causes agencies to be overly cautious when cultivating future leaders, when agency managers and executives should be deeply involved in the selection and cultivation of future leaders. Agencies should have talent boards led by senior career employees who actively cultivate their agency workforce.

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<sup>33</sup> Merit Systems Protection Board. (2015). Training and Development for the Senior Executive Service: A Necessary Investment. Washington, DC.  
<https://www.mspb.gov/netsearch/viewdocs.aspx?docnumber=1253299&version=1258322&application=ACROBAT>

### **Reform the Federal Pay System**

The General Schedule (GS) system is byzantine and broken. It is marginally if at all effective in recruiting, motivating and rewarding good employees. Time and seniority based pay progression is a vestige of a bygone era. Managers need flexibility to reward and promote employees who prove they are able to perform higher level work without waiting for time-in-grade restrictions. SEA supports a common sense approach that would bring more flexibility (e.g., pay banding, skills based pay, variable pay, market driven pay, dual track pay progression (managerial vs. technical tracks), etc.) to the federal pay system. The system needs to become widely available and established to promote fairness, accountability, and a better “bang for the buck” for employees and taxpayers alike.

While not perfect, more aspects of the SES pay for performance compensation approach could be embedded into GS type managerial/supervisory jobs wherein bonuses and special pay awards play a larger role in total compensation. OPM and OMB need to exert leadership with help from public and private sector groups and experts. Changes in pay systems must be complemented by changes in performance management systems and practices so as to reinforce and maximize the effectiveness of pay reform, and training on those new systems and changes. Clear communication with employees and employee representatives will also be a crucial factor to the success of pay and performance management reforms.

### **Performance Management**

Training is a key to successful performance management efforts. Supervisors and employees alike need to understand their agency’s performance management system and their roles and obligations within that system. A lack of understanding or poor implementation of performance management systems breeds distrust between supervisors and employees, which can generate disengagement, lowered productivity and performance levels, grievances and legal actions.

Current frameworks for managing performance and risk need to be recalibrated. The GPRAMA process does call for agencies to undertake planning and strategic goal setting. GAO has found agency implementation of GPRAMA to be uneven<sup>34</sup> and agencies need to fully identify and report major management challenges and actions to resolve them in agency performance plans.<sup>35</sup> However, GPRAMA-induced planning is often done at the expense of an enterprise assessment of risk management, which SEA posits is more important to focusing management attention on risk to key agency operations and restoring public trust in government. OMB’s revision of Circular A-123 was an important first step, and the release of an enterprise risk management (ERM) playbook<sup>36</sup> by the CFO Council and Performance Improvement Council (PIC) provided a useful tool for leaders across government.

<sup>34</sup> Government Accountability Office. (2015). Implementation of GPRA Modernization Act Has Yielded Mixed Progress in Addressing Governance Challenges. Washington, DC. <http://www.gao.gov/products/GAO-15-819>.

<sup>35</sup> Government Accountability Office. (2016). Agencies Need to Fully Identify and Report Major Management Challenges and Actions to Resolve them in their Agency Performance Plans. Washington, DC. <http://www.gao.gov/products/GAO-16-510>.

<sup>36</sup> CFO Council. (2016). Enterprise Risk Management (ERM) Playbook Released. Washington, DC. <https://cfo.gov/2016/07/23/enterprise-risk-management-erm-playbook-released/>.



Data from the Federal Employee Viewpoint Survey (FEVS) demonstrate that government performance management practices can be improved. Analysis of FEVS data by the Partnership for Public Service and Deloitte found that only 60.1 percent of government employees received constructive feedback through the performance process, compared to 75 percent in the private sector.<sup>37</sup> Management gurus and leading organizations have been discussing how to reinvent performance management<sup>38</sup> for several years, as have some public sector organizations, and the government should learn from how large organizations are applying these changes<sup>39</sup> and explore applying them to government. SEA is committed to constructively participating in dialogue around reforming how the government does performance management.

#### **Employee Accountability**

Research has demonstrated that agency culture has by far the greatest bearing on the ability of managers to hold employees accountable for misconduct or poor performance.<sup>40</sup> The second and third next closest barriers were the support given by superiors, followed by the quality of service provided by HR. Unfortunately, it is often culturally easier for a manager to ignore a problem employee or detail them than to deal with the issue. Managers often are reluctant to take action against an employee, particularly if they do not receive appropriate support from superiors, agency political leaders, HR, agency counsel, and others, and consequently are disincentivized to commit substantial time and effort to address said employee and meanwhile feel vulnerability to grievances or other employee complaints.<sup>41</sup> The current system is simply too complex, and the slightest misstep by a manager could cause a poor performing employee to retain their employment and subsequently be protected against accountability because of the ability to hide behind retaliation claims.

Increased emphasis on accountability through statutes such as the No FEAR Act (P.L. 107-174) makes managers even more reluctant to act against poor performers out of fear of an EEO or IG complaint, which can take up a substantial amount of their time and threatens to label them unfairly. While there are legitimate EEO, IG, and whistleblower claims, some employees who use these processes are merely attempting to paralyze their managers. These charges clog the system and delay attention to justified complaints. Currently, employees who make complaints are provided no disincentive from alleging problematic behavior by a manager, even if none

<sup>37</sup> Best Places to Work in the Federal Government. (2016). Government-Wide Analysis. Washington, DC. <http://bestplacestowork.org/BPTW/analysis/>.

<sup>38</sup> Buckingham, Marcus & Goodall, Ashley. (2015). Reinventing Performance Management. *Harvard Business Review*. <http://hbr.org/2015/04/reinventing-performance-management>.

<sup>39</sup> Capelli, Peter & Tavis, Anna. (2016). The Performance Management Revolution. *Harvard Business Review*. <https://hbr.org/2016/10/the-performance-management-revolution>.

<sup>40</sup> Merit Systems Protection Board. (2016). Addressing Misconduct in the Federal Civil Service: Management Perspectives. Washington, DC: Office of Policy and Evaluation.

<http://www.mspb.gov/mspbsearch/viewdocs.aspx?document=1363733&version=1362157&application=ACRO8.A1>.

<sup>41</sup> Government Accountability Office. (2015). Improved Supervision and Better Use of Probationary Periods Are Needed to Address Substandard Employee Performance. Washington, DC. <http://www.gao.gov/assets/670/668339.pdf>.

had occurred. While it is important that employees always be provided outlets for reporting wrongdoing, a better balance than currently exists should be explored that disincentivizes frivolous complaints.

SEA and the Government Managers Coalition (GMC) have long supported a Federal Managers Fairness Act that would allow managers to participate during the EEO process, have the right to be consulted before a settlement, have the right to know when a case is filed and when it is finished, and be considered for lost benefits resulting from EEO complaints found to be without merit. The Federal Managers Fairness Act would allow managers to be assured that they will receive fair treatment during the complaint process. It will also provide managers with one more tool to ensure that they effectively deal with employees and are not unfairly burdened by a system they do not fully understand.

Given the complexity of federal personnel law, SEA encourages Congress to explore the creation of a unified federal dispute resolution forum that would serve as a singular point of resolution for all employee complaints, including EEO and labor arbitration. Creation of such a forum would end the process of “forum shopping,” in which employees can file complaints to various entities (i.e. MSPB, EEOC, FLRA, OSC), in the hope of delaying the process or reaching a settlement. A unified forum would also address the problem of conflicting precedents in EEO cases by various circuit courts. A proposal developed by the Coalition for Effective Change, of which SEA was a leading member, to do this was released in 1995.<sup>42</sup> It is still relevant today.

Recently, Congress has (for the VA) and has debated reducing the employment protections of federal employees, for example those in the SES as well as those at specific agencies (i.e. IRS, EPA). Some proposals call for making members of the SES or the workforce in general “at-will” employees with no or very limited protections. SEA is deeply concerned about this discussion and the implications such changes would have for the American public if not fully and properly debated. According to a 2015 SEA survey of senior career leaders, respondents felt that at-will employment in the federal government would be detrimental to agency efficiency, effectiveness, integrity, productivity, innovation, operational stability, and public trust in government.<sup>43</sup>

Guarding the government workforce from politically motivated or capricious personnel actions is not about protecting the jobs of government employees. Due process protections serve to protect for the public the integrity of the delivery and execution of governmental activity by keeping it free from partisan political influence. Due process protections for government employees are the mechanism by which the apolitical, merit-based civil service is protected.

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<sup>42</sup> Gilson, Bob. (2017, February). So, What’s Changed? *ACTION*. Washington, DC. <https://seniorexecs.org/communit/content/article?id=28&so-what-s-changed>.

<sup>43</sup> Senior Executives Association. (2015). At Will Employment in the Career Senior Executive Service: Promoting Accountability or Threatening Federal Government Effectiveness and Senior Management Capability? Washington, DC. [https://seniorexecs.org/images/documents/press\\_releases/AtWillSurveyReport.pdf](https://seniorexecs.org/images/documents/press_releases/AtWillSurveyReport.pdf).

### Retirement

Federal employees have always understood that they would not become rich working for the government, but they would have a secure retirement. That is an appropriate trade-off for those working in the public trust and on the public's behalf. As Congress explores potential changes to the government's compensation and benefits package, including retirement, it must hold sacred employment promises made to current employees and annuitants. For current annuitants and those soon to retire, SEA and its colleagues in the Government Managers Coalition (GMC) have over the years provided suggestions to OPM and Congress about improving the retirement system for federal employees.<sup>44</sup>

Looking forward and considering current labor market dynamics, it may be appropriate for the government to offer a more portable retirement package that enables employees to come in and out of government more easily, while not losing benefits or earned assets.

### Assessing Structural Barriers to Government Effectiveness

#### The Senior Executive Service

This testimony did not offer specifics on SES and senior professional reform. This was done for two reasons. First, addressing SES reform in a vacuum without addressing the foundational issues discussed above would miss an opportunity to drive more lasting and important reform. Second, SEA has recently testified in both the Senate<sup>45</sup> and the House<sup>47</sup> on the SES and offered specific ideas, and is also actively working with lawmakers and under new leadership on additional areas for reform.

#### Career Leaders Need to be at the Table

Despite career senior executives being envisioned in the CSRA as the “keystone” that serves to professionally bridge short-term political appointees with the career federal workforce, career

<sup>44</sup> Government Managers Coalition. (2013, February 9). Letter to Chairman Farenthold and Ranking Member Lynch, House Oversight and Government Reform Committee. Washington, DC.

<http://www.fedmanagers.org/files/ccibraryfiles/fileName/00000000409/GMC%20Letter%20to%20Federal%20Workforce%20Subcommittee%20on%20backlog%205.9.13.pdf>.

<sup>45</sup> Senior Executives Association. (2014, May 6). Testimony of SEA President Carol Bonosaro before the Senate Subcommittee on the Efficiency and Effectiveness of Federal Programs and the Federal Workforce on “A More Efficient and Effective Government: Cultivating the Federal Workforce.” Washington, DC. [https://senexecs.org/images/documents/congressional\\_testimony/SEA\\_Testimony\\_for\\_SEEPEFW\\_Subcommittee\\_Hearing\\_5-6-14.pdf](https://senexecs.org/images/documents/congressional_testimony/SEA_Testimony_for_SEEPEFW_Subcommittee_Hearing_5-6-14.pdf).

<sup>46</sup> Senior Executives Association. (2015, June 3). Written testimony of SEA President Carol Bonosaro before the Senate Subcommittee on Regulatory Affairs and Federal Management on “21<sup>st</sup> Century Ideas for the 20<sup>th</sup> Century Federal Civil Service.” Washington, DC. [https://senexecs.org/images/documents/policy\\_initiatives/SEAWrittenTestimonyfor21stCenturyIdeasforthe20thCenturyFederalCivilService6.3.15.pdf](https://senexecs.org/images/documents/policy_initiatives/SEAWrittenTestimonyfor21stCenturyIdeasforthe20thCenturyFederalCivilService6.3.15.pdf).

<sup>47</sup> Senior Executives Association. (2014, July 11). Testimony of SEA President Carol Bonosaro before the House Subcommittee on Federal Workforce, U.S. Postal Service, and the Census on “Oversight of the Federal Workforce: The Viability of the Senior Executive Service.” Washington, DC. [https://senexecs.org/images/documents/webinars/SEA\\_Testimony\\_for\\_Fed\\_Workforce\\_Subcommittee\\_7.11.14\\_00024760x8/C39.pdf](https://senexecs.org/images/documents/webinars/SEA_Testimony_for_Fed_Workforce_Subcommittee_7.11.14_00024760x8/C39.pdf).

senior leaders are often not included at the highest levels of agency decision making. Consequently, policy decisions are sometimes made by political leadership without consideration the ability of the agency to deliver upon that decision. Research by Professor Paul C. Light found that the growing cascade of government breakdowns can be often be attributed to a failure of linking policy vision with execution, including overseeing faithful execution of the intended policy vision.<sup>48</sup>

Too frequently senior career leaders are treated more like senior managers, as opposed to true senior executives with decision making authority. Professor Light and others have studied the thickening of senior management roles – both political and career – and the negative results of diffused decision making and authority. Short term political appointees should not be assigned to key agency administrative roles such as Chief Operating Officer, Chief Human Capital Officer, etc. SEA supports legislation restricting such positions to career-reserved.

### **Reduce Fragmentation, Overlap, and Duplication**

It is almost impossible to imagine a top to bottom review of the federal government’s agency/mission/organizational structure (a la the Defense Department Base Realignment and Closure process) even though this is vitally needed. Previously introduced legislative proposals, such as the Government Transformation Act (S. 2269 in the 114<sup>th</sup> Congress) offer one potential mechanism to achieve this goal. If this can’t occur then proactive, ongoing steps and reforms need to be established to vastly improve intra and interagency coordination (including information sharing, managerial cooperation, resources reallocation, etc.) in key mission areas such as public health, national, cyber and homeland security, energy and the environment, etc. While previous administrations have attempted this, for example through the President’s Management Council, pursuit of category management for procurement, and establishment of organizations like the Unified Shared Services Management (USSM), more effort is needed – absent statutory changes it will be very difficult to move the needle. Antiquated authorization and appropriation methods may also need to be improved to provide the most effective enterprise-level management and coordination possible.

GAO’s research into opportunities to reduce fragmentation, overlap, and duplication provides a handy government-wide view into addressing challenges in this area.<sup>49</sup> Agencies and Congress need to continue to work together to reduce overlap, duplication, and dysfunctional redundancy and lack of ownership by forcing consolidation and improved coordination among similar organizations, functions, missions, and managers within and across agencies.

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<sup>48</sup> Paul C. Light. (2015). *Vision + Action = Faithful Execution*. The Volcker Alliance. New York. <https://www.volckeralliance.org/sites/default/files/attachments/Vision%20%2B%20Action%20-%20The%20Volcker%20Alliance.pdf>.

<sup>49</sup> Government Accountability Office. (2016). *Additional Opportunities to Reduce Fragmentation, Overlap, and Duplication and Achieve Other Financial Benefits*, GAO-16-375SP. Washington, DC. [https://www.gao.gov/https://www.gao.gov/files/GAO\\_16\\_375SP](https://www.gao.gov/https://www.gao.gov/files/GAO_16_375SP).

It's time to start thinking of the federal government and its organizations and workforce as an entire enterprise and not just a collection of ornaments hung on a sagging tree that never gets trimmed, reshaped, or cross-bred.<sup>50</sup>

#### **Conclusion and Next Steps for Reform**

SEA believes that comprehensive civil service and government reform is necessary to enable the government to best serve vital national interests in the 21<sup>st</sup> century. Reform must not only allow the government to meet current requirements, but must lay the foundation for a more agile and nimble federal apparatus that is capable of responding to the dynamic challenges and change that technology will drive in society in the coming years. Methods such as strategic foresight could be employed to inform reform efforts.

This testimony touched upon many ideas, both large and small, that can address the empowerment and improve the effectiveness of management-level employees. SEA's recommended course of action is for the Congress to take immediate action on smaller-bore issues that can be taken up in the near term – such as enhancing hiring authorities that enable the government to fill critical skills gaps and fulfill mission requirements, streamlining disciplinary and accountability processes while maintaining fairness and employee due process rights – and chartering a commission to tackle the mammoth task of developing a modern personnel system and other areas that require careful assessment.

SEA stands ready to work with this Subcommittee and all Members to discuss how we can unleash government employees to lead and how the civil service can be brought up to date in order to best serve the American people.

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<sup>50</sup> Rosenbloom, David, Malone, Patrick & Valdez, Bill. (Eds.). (2016). *The Handbook of Federal Government Leadership and Administration: Transforming, Performing, and Innovating in a Complex World*. London: ASPA Series in Public Administration and Public Policy.

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**WRITTEN STATEMENT**

**BY**

**ROBERT E. CORSI, JR.**

**FORMER ASST DEPUTY CHIEF OF STAFF, MANPOWER, PERSONNEL & SERVICES (USAF-RET)**

**TO**

**UNITED STATES SENATE**

**SUBCOMMITTEE ON REGULATORY AFFAIRS AND FEDERAL MANAGEMENT**

**ON**

**EMPOWERING MANAGERS: IDEAS FOR A MORE EFFECTIVE FEDERAL WORKFORCE**

**FEBRUARY 9, 2017**

**(AMENDED FEB 24, 2017)**

I want to thank the Chairman and Committee members for the opportunity to share my experiences of over 46 years in the Air Force which include my military capacity for 28 years and my 18 years as a member of the Senior Executive Service. I will try to assist the Committee in finding ways to improve the management of the federal workforce. In both my roles, I have had the distinct honor of working with some of the most professional, dedicated, and incredibly humble civilians who ensure that the mission is carried out in spite of all the transitions that occur for both our military and civilian leaders. In my last position before I retired, I was responsible for overseeing all the policies and processes to take care of a Total Force of over 600,000 military and civilians from the time we access them into the Air Force until they leave or retire. I use the phrase that our career civilians are in a marathon while our military and political leaders are in a sprint. The career civilians hold their jobs for years while the military and political leaders hold their positions for two years or less. It is critical that whatever reforms you contemplate will recognize the importance of our career civilian workforce. These workers provide the necessary continuity during periods of high leadership turnover and that we, above all, must hold them in high regard.

Having managed and led civilians at every level in an agency's hierarchy and developed an understanding of other department/agency dynamics, I would be the first to say that the civil service system needs major rework. The system has evolved over many years, but fundamentally has not changed in its approach in many ways since its inception. Several things have changed: a very dynamic budget environment driven by Sequestration, a workforce that is unjustifiably held in disregard, as well as individual Congressional oversight committees that institute reforms that break with past practices of ensuring consistency across the federal workforce. Managers are consumed on a daily basis with budget uncertainty, archaic hiring

practices that don't allow them to compete on a level playing field with the private sector, grievance and complaint processes that drag on for years, and the lack of ability to develop and shape their workforces. My comments will literally address most aspects of managing the civilian workforce as well as offer recommendations to the Committee that can start a process to ensure that managers have the necessary tools and understanding to manage the civilian workforce.

#### **BUDGET PREDICTABILITY**

Without Postal, there are approximately 2.1 million civilian full time equivalents (FTEs); at approximately \$100K per person, civilian pay accounts for roughly \$210 billion/year in the federal budget. Budget unknowns driven by Sequestration and continuing resolutions create the most pressing challenge for managers at every level. When funding is received at the mid-year point of the fiscal year, managers are unable to make commitments concerning sizing at every level, hiring managers are in a wait and see mode, recruiting programs are already behind in posturing, civilian training is put on hold, and most importantly, managers don't know what to tell the workforce to calm their anxieties. To achieve efficiencies in the workforce, managers need the assurance that when they implement best practices and adjust their workforce levels they should be able to count on having those levels in the future. The largest disincentive is to drive economies only to create the next baseline for reductions.

#### **RECOMMENDATIONS:**

- a. Congress must deliver budgets that are on time with authorities to execute at the start of the fiscal year.
- b. Congress should consider approving not only civilian employment levels for the budget year, but give the agency a planning level for the next two years so they can make longer term decisions on workforce management.

#### **SIZING OF THE FEDERAL WORKFORCE**

It is very difficult to address any reform initiative without addressing how the federal workforce is sized. There has never been an analytical basis to size the federal workforce, nor has there been a requirement to do so. Manpower requirements should be directly linked to what workload is required to be performed. Across most agencies, if you ask what they need, they will give head counts and communicate their onboard strength as their requirement. And, in most cases, they will have to inquire at the lowest level in their agency to get the numbers. Most organizations do not have an authoritative manpower document that identifies, at the lowest organization level, as to the numbers, grades, and skills of personnel **required** in the organization. Very few agencies have a rigorous process to identify their workforce requirements and manage the inventory to match the requirements. Managers are literally blind, especially at the senior levels, on the management of their workforce. Hence, there is no way to defend an agency's manpower levels in budget drills; and their civilian pay budgets are adjusted without regard to what work is not being accomplished. Without a sound

requirements basis for workforce levels and a budget that reflects those requirements, the churn in the workforce will increase as the hiring freezes and the downward pressure on budgets continue. To its credit, the DOD has spent years on developing a requirements baseline, especially in the Services, to support both its military and civilian requirements and have the authoritative manpower documents to articulate its needs at every level. The Armed Services Committees hold the DOD to a very high standard on workforce management. In an ideal situation, there should be two drivers of workforce reductions: program eliminations and workload decreases. Outside of DOD, I'm unaware of any other Department/Agency who has the professional staff to analytically determine required manpower levels.

**Recommendations:**

All these recommendations will take time to implement and Congress must be willing to direct the agencies to:

- a. Build an analytical baseline for their manpower requirements that addresses the budget year plus two years to ensure that they are looking to the future for planning purposes. Establish reasonable goals for each year to size portions of their workforce
- b. Have an authoritative manpower document for every position in the agency that will allow for complete visibility by the agency head.
- c. Have a professional staff to advise the agency head on all matters concerning the size of their workforce.
- d. Have complete visibility of all the demographics for their workforce from cradle-to-grave.

**WORKFORCE MANAGEMENT**

In literally every aspect of workforce management, managers are consumed on a daily basis in dealing with their workforce challenges. There are huge foundational issues for the civil service system and structural changes need to be considered to posture the workforce to compete in the 21<sup>st</sup> century. Significant structural changes must occur with the General Schedule (GS) pay system and how OPM uses the Job Classification process.

**General Schedule Pay System.** Approximately 1.5 million workers are under the GS system which has been in place for over 90 years and whose stated purpose was to maintain parity with the private sector. In addition, longevity is the driver for within-grade pay increases with no emphasis on increased performance. Over time, to attempt to maintain parity, locality pay was introduced and has been greatly expanded. In addition, OPM has had to grant special pay adjustments for unique locations. Even with all of the adjustments, managers struggle to compete with the private sector where the pay gap continues to grow. Two sides of the dialog exist: 1. proponents of the system because it attempts to pay equal pay for equal work; and 2. opponents who state the system does not provide merit based incentives. Over the years, OPM has granted approval for many demonstration pay projects because of the inability of the GS system to meet their critical skill demands to compete with the private sector. That number of



alternative or experimental pay schedules now exceed 10. Examples include the Lab and Acquisition Demo Pay Systems in DOD. All of the demo pay systems are performance based and use a pay banding approach. This allows managers to recognize performance within a pay band and non-competitively raise individual pay within the band. This also gives managers huge flexibility to manage and to incentivize their workforce without the cumbersome GS process of raising pay only by competing for a higher grade. These demo projects have been very successful. Managers applaud their use, yet there is a hesitancy to widely export the benefits because of the resistance to eliminate the GS system. In addition, there would be no need for demo pay systems if they were implemented federal-wide. Furthermore, the new Federal Appraisal System that is being fielded has changed from a pass/fail to a system that now recognizes outstanding performance in addition to meet and fail to meet standards.

**RECOMMENDATION:**

- a. **Eliminate the GS system with step increases entirely and adopt a pay banding concept across the federal sector. Consider using the 6 pay bands that are used in most demo systems which spread the 15 GS grades over the 6 bands. Implementation should be accomplished within current pay budgets.**
- b. **As part of implementation, agencies will have to work with OPM to comport all position descriptions to the pay banding construct which will provide flexible position descriptions to move workers within a pay band.**

**Job Classification System:** Managers are mired in a job classification system that consumes their time and creates an adversarial relationship between the manager (who knows best what is required to do the job) versus a personnel staff that sometime uses the job classification system to counter the best judgment of managers. Job classifiers exercise significant authority in enforcing what they believe are rigorous OPM standards. These are called Classification Standards and classifiers use the threat that an agency can lose their certification if the managers did not follow their decision. I've seen organizations at the point of mission failure because classifiers would not recognize a higher grade requirement to be competitive. There are examples of where the discussions between classifiers and managers have gone on for over a year until senior leaders had to intervene because of mission degradation. OPM clearly states: "that the standards should be considered and interpreted as **guides to judgements** made under the classification authority delegated to agencies by title 5 U.S.C." They further state that: "classification standards are intended to be a guide to judgement, not a substitute for it." The pay banding system, if adopted, would go a long way to eliminate the lost productivity of managers as they deal with classification issues.

**RECOMMENDATIONS:**

- a. Revamp the job classification system to assist managers in deciding appropriate grade structures and to give managers the final decision authority...not the classification authority.
- b. OPM must educate personnel specialists who perform classification that accountability for mission accomplishment rests with the manager. The personnel specialists are there to assist not dictate.
- c. OPM needs to convey to classification authorities that management's judgment will never be a basis for decertification.

**Human Capital Strategic Plan.** In most non-DOD agencies, personnel accounts for over 70% of their overall budgets, yet many agencies do not have a strategic plan for overall management of their workforces. Day-to-day agencies are reacting and making short term decisions without the benefit of a long-term strategy that factors in the recruiting market place, aging workforce dynamics, training, leadership development, technology insertion, and changing work requirements. Regardless of budget dynamics, a complete understanding of the workforce is absolutely critical in order to make informed decisions and to understand the impact of those decisions on the future workforce.

**Recommendations:**

- a. As part of budget justifications, Congress should require every agency to have a comprehensive human capital strategic plan that addresses every cycle from accession through retirement which is based on analytics of the entire workforce.
- b. Congress should require, and OMB should enforce, that every proposed change in workforce level is supported with analytical rigor as part of an agency's budget justification.
- c. OPM should require agencies to conduct retention and exit surveys to ensure that they understand why the workforce is leaving. Just as important, agencies need to know why the workforce is staying to inform their strategic plan.

**Competing for Talent.** We are dealing with a highly competitive job market. Managers should be afforded a wide range of options to compete with the private sector which is not the case now. Only for rare critical skills, approved by OPM, do managers have direct hire authority for college graduates and the ability to make on the spot job offers is limited. There are further limitations on what grades can be offered to new college graduates regardless of whether they have critical skills. Normally, entry grade is a GS-7 with a bachelor's degree and GS-9 if they have a master's degree. Agencies are required to advertise all positions and they have challenges in getting the right person for the job. That process can take over 6 months to get someone onboard while possibly not getting the best talent. That same scenario even exists with the wage grade workforce on their ability to get direct hire authority which only OPM can approve. Agencies know their critical skill requirements and should not have to justify direct

hiring authority to OPM. Clearly, OPM is concerned with maintaining merit system principles by keeping the keys to most hiring practices. At what point do we hold the agency head accountable and give them the authority to use the full range of options, so they can compete in the market place on a level playing field? I say the time is now. In addition, the newly established two-year probationary period in DOD for new hires makes absolute sense. This period of time ensures that new hires are competent based on demonstrated performance; so the probationary period should be mandated federal-wide to stop the job shopping that now occurs between federal agencies based on entry criteria.

**Recommendations:**

- a. Direct OPM to expand direct hire authority and let the agency head determine the skills they need for this authority and have them advise OPM.
- b. To compete with the private sector for high demand technical expertise, establish a direct hire, highly qualified expert category, across the entire federal sector, on a term appointment and allow maximum pay flexibility to compete with the private sector.
- c. For new college hires, allow for a non-competitive direct hire category in high demand skills with competitive bonus authorities. Agencies will advise OPM on what skills they will use this authority.
- d. Consider a separate non-competitive direct hiring category for critical skills coming out of college. These would be term appointments for high-tech candidates where an agency needs a continuous flow of very current technical expertise.
- e. Expand the two-year probationary period for all new DOD civilians to all federal employees.

**Workforce Development.** While OPM has spent an incredible effort on developing competencies to be considered for the SES, little has been done to enable civilians to achieve these competencies in a repeatable and exportable way across the agencies. We need to decide if we want each federal agency to be responsible for its own program without the benefit of defined desired outcomes; or do we mandate the outcomes and allow each agency the flexibility as to how to achieve the outcomes. OPM is the face of the federal workforce and must take ownership communicating consistently to new employees as to what the federal government values and what the government will offer to those aspiring to federal service. Set these criteria as the basic or minimum development opportunities that any agency will provide. Some agencies will go well beyond the minimums and establish well defined leadership paths where members clearly understand what it will take to be competitive for the SES. For example, the talent management program that the DOD uses for its SESs is constantly held up as a model to follow as are the civilian development models that some DOD components use to grow their workforce. Those components clearly communicate to the workforce the importance of both professional and personal considerations should they choose to be competitive for senior leadership opportunities. It is very clear from day one in these

components as to what is offered in the way of leadership development and what it takes to progress. In addition, managers who have a blended workforce of Title 5 (competitive service) and Title 10 (excepted service) civilians have no flexibility to cross-develop personnel without requiring their Title 10 employees to compete for jobs as if they were new federal employees. This requirement significantly limits development opportunities.

To build the next generation of civilian leaders and to retain our talent, nothing is more important than to mentor aspiring leaders in their development. Becoming an SES brings with it a host of new responsibilities, not the least of which is to set the right example and to understand the immense responsibility of grooming the next generation of leaders. Organization heads must take the time to communicate their expectations to new SESs, either directly or indirectly, regarding their new roles that go well beyond their specific job responsibilities. Clearly, new SESs can feel overwhelmed in their jobs which can be expected. But mentoring should not be new to new SESs if the organization embraced its importance and relayed it as a necessary expectation in their careers leading to the SES. Most organizations have no policy at all when it comes to mentoring; others require, to their credit, that not only should new SESs find a mentor, but also require that the new SES becomes a mentor. We expect, and rightfully so, that we are picking the right SESs from the start, that they embrace the value of public service, and more importantly, they acknowledge that “giving back” is incredibly important in the development life cycle. Aspiring leaders need role models. So from day one, they look to their leadership chain to guide them in their development. Just by setting the example day-to-day (call this passive mentoring) SESs can help aspiring leaders formulate informed expectations as to their own development. At some point, where there is no firm ruleset, aspiring leaders need “active” or “deliberate” mentoring and only senior leaders can best determine when that should begin. With strong top leadership support and a great appreciation for a diverse and inclusive workforce, Air Force recently fielded an AF-wide mentoring program called: “MyVector.” Before I retired from the Air Force, they had over 13,000 volunteer mentors, both military and civilian, and over 130,000 members who were seeking mentors.

**Recommendations:**

- a. Congress should require every federal agency to have a formal civilian development program for its professional workforce that includes leadership development and require OPM to certify their program.
- b. Congress should require that all agencies have a line item in their budget to fund civilian training and development and those monies cannot be used for other purposes. As a start, levels could be established at .5-1% of civilian salaries. Regardless of authority, Title 5, Title 10, etc., this should be mandated in all authorization and appropriation language.

- c. Since job mobility is a critical element to build leadership skills, agency plans must incorporate the funds to move high potential individuals to different locations to build breadth and depth of experience.
- d. Agencies that have programs that clearly go beyond the minimums should be rewarded. OPM should work with the Congress to implement these programs in the budget process.
- e. Congress should direct OPM to take the lead to develop interchange agreements with agency heads who oversee excepted service employees. These agreements would allow managers to cross-utilize/develop their employees regardless of their appointment status.
- f. Require all agencies to offer a mentoring program to their employees as part of their human capital strategy to both retain talented employees and to guide their development.

**Shaping the Workforce.** Managers need tools to help them shape their workforce outside the normal downsizing process when evolving work requirements demand a different skill set. Currently, all agencies, other than DOD, are required to get OPM approval and justify why they need early retirement authority. Because of its dynamic workforce, DOD is normally authorized to use the authority which is incorporated in the National Defense Authorization Act. Current use of the authority is linked to showing that an employee is saved from involuntary separation when a retirement is incentivized. Agencies should not be restricted in using the authority only to save a displaced employee. Instead agencies should be given wide latitude to shape their workforce if they have the necessary funds to do so. In addition, the maximum incentive of \$25,000 that was authorized in 1993 is no longer viable as an incentive since it is worth less than \$15,000 in 1993 dollars. DOD has asked to raise the amount to \$47,000 to adjust for inflation and the Senate Armed Services Committee appears to support a lower amount of \$40,000. Subject to funding availability, agency heads should have the approval authority for shaping their workforces.

**Recommendations:**

- a. Congress needs OPM to give agency heads the authority to shape their workforce and give them wide latitude on using monetary incentives to incentivize either early retirement or resignation. Agencies should be required to advise OPM when they are using these authorities.
- b. Congress should ensure that any authority to raise the incentive amount from \$25,000 for DOD is expanded, federal-wide.

**Leveraging the Private Sector.** REMOVED RECOMMENDATION SINCE IT WAS INCORPORATED IN THE TALENT ACT SIGNED IN JAN 2017 WHICH OCCURRED AFTER I RETIRED.

#### **GRIEVANCE/COMPLAINT PROCESS**

Managers spend a significant amount of time in dealing with the myriad of dispute resolution processes. Most dispute resolution processes drag on for years consuming both manager and staff time. When disputes cannot be resolved internally within a department or agency, there are many forums that could be involved. These include: Federal Labor Relations Authority, Merit Systems Protection Board, Equal Employment Opportunity Commission, and the Office of Special Counsel. Due process rights and procedures were supposed to ensure effective and efficient management. But most would agree that they are a major impediment to good management. Some agencies choose to settle disputes even though there are no substantiated claims. This is simply because the agencies make value judgments on the costs of manager and staff time to pursue having the claims dismissed. In addition, we have chronic complainants who face no penalty when their claims are not substantiated. In almost all of these processes, management is considered at fault until proven otherwise. This issue is a major reason why managers may be risk adverse on taking action to remedy workplace issues.

**Recommendation.** Congress should direct a complete review of the federal employment dispute resolution process which could start with a review done in February, 1995, titled: "A Proposal to Streamline Federal Employment Dispute Resolution," prepared by the Performance Management Committee, Coalition for Effective Change. In addition, there should be a requirement to bring all disputes to closure within a year.

#### **FIRING & REHIRING**

The federal government has a good process for dealing with employees whose conduct for a myriad of reasons warrants separation from employment. When an agency concludes that the infraction requires firing, employees can sometimes opt to resign in lieu of firing. When they resign, there is no official documentation in their final record (SF-50) to annotate the reason for resigning. The result is that individuals can find employment in another federal agency without the new agency having cognizance of the past behavior that led to dismissal. Additionally, in many settlement cases, the firing agency is not allowed to disclose the reasons for a resignation to future employers. All federal agencies should be completely aware of the past federal history of individuals who want to re-enter the federal workforce. The reasons for removal should not be subject to bargaining during the separation negotiations.

**Recommendation.** Congress should direct OPM to modify the SF-50 to incorporate reason codes for resigning to ensure that future federal employers are aware of past infractions before they make hiring commitments.

#### **CONCLUSION**

In conclusion, there is so much that can be done to improve the management of the federal workforce and at the same time convey to the workforce how valued they are. To

provide budget predictability and to ensure that we have an analytical basis for the size of the federal workforce are critical necessities to inform workforce adjustments contemplated by the Administration and the Congress. Locality pay, special pay authority, pay demonstration projects, longevity increases, all these make a compelling case to eliminate the General Schedule Pay System. The time is now to export the lessons learned from the pay demonstration projects and to ensure that we move forward with a pay for performance system. Putting more rigor in how the workforce is managed will ensure that agencies understand what they need not only now, but in the future. In addition, give agencies the tools to be competitive with the private sector to attract talent and to embrace the need for mentoring and leadership development. Use these tools to retain the talent which will help stabilize the workforce. Any changes that will give agency heads more authority to manage their workforce and to empower them with the proper tools will pay great dividends in giving managers more time to be managers. Again, I applaud the Committee for taking on this challenge. I offer my service to do whatever I can to help the Committee bring real positive change to the federal workforce. Our country and our federal employees deserve no less.



# CONGRESSIONAL TESTIMONY

STATEMENT BY

J. DAVID COX, SR.  
NATIONAL PRESIDENT  
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

BEFORE

SUBCOMMITTEE ON REGULATORY AFFAIRS AND FEDERAL MANAGEMENT  
SENATE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

ON

EMPOWERING MANAGERS: IDEAS FOR A MORE EFFECTIVE FEDERAL WORKFORCE

February 9, 2017

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO  
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Mr. Chairman, Ranking Member Heitkamp, and Members of this Subcommittee. My name is J. David Cox, and I am the National President of the American Federation of Government Employees, AFL-CIO (AFGE). On behalf of the 700,000 federal and District of Columbia employees across the nation and around the world represented by our union, I thank the Subcommittee for the opportunity to present AFGE's views on the subject of this hearing: "Empowering Managers: Ideas for a More Effective Federal Workforce."

One of the most useful ways to frame policy questions that aim to address a real or perceived problem is to ask what is needed: New laws or more effective enforcement of existing laws? In the context of this hearing, the question is whether the laws on the books give federal managers adequate authority to manage the federal workforce, or whether they need new authorities granted by new, more expansive laws.

I can tell you unequivocally that no new laws are needed. America has the best civil service in the world. No expanded authorities for government managers are needed. What may be needed is more effective enforcement of existing law and better training for federal managers so that they know how to use their substantial authorities. In addition, because we believe that managers' failures to utilize their authorities derives from more than just ignorance, what is needed are federal managers with the courage, organizational skill, and confidence to take actions that may at times feel uncomfortable. The public and the vast majority of federal workers who do an excellent job every day deserve no less.

There are two sides to the managerial dilemma. First and foremost is the responsibility for hiring, developing, cultivating, training, motivating and providing the tools for the 99% of the workforce who are productive employees. Hiring good employees, giving them good direction and the tools to do their jobs, including a union voice to deal with concerns and provide input, empowers employees to do their job. Good managers also need to provide positive motivation and recognition of employees for their contributions. These are the basic premises of success. Virtually all studies of federal employee performance management call for engagement of front line employees as the key to creating highly successful organizations. Managers need to focus on the 99% of the workforce who are doing good work, and they must be supported by agency heads and Congress. Unfortunately, this is not where the public focus and debate rests, although this is where managers really need to spend their time.

Instead Congress is focusing on how to get rid of the tiny percentage of the workforce that fails to perform or engages in misconduct. AFGE's view is that if one were to quantify the group of poorly performing employees who are left after taking out those who failed probation, quit before being fired, and those that got fired and were later found to be without fault, that this number would be even smaller than 1%. So AFGE's concern is that we are spending too much time and energy focused on less than 1% of the workforce instead of leading and managing the other 99% for success. AFGE believes that managers and systems for managing need to be focused on the

99% of successful employees while taking into account the need to deal with the very small number of poor performers.

As you are aware, the modern civil service was created by the Pendleton Act, signed into law in 1883. Prior to that time, all Executive Branch employees were considered to be "at will" and were largely appointed based on patronage principles ("to the victor go the spoils"). This resulted in a highly partisan civil service, which changed when a new Presidential administration took office. Unqualified people were appointed to offices that required more and more technical expertise in an emerging modern state, and the inevitable corruption that ensued became a threat to the nation and to our democracy.

The assassination of President Garfield in 1881 by a disappointed office seeker (Charles Guiteau) finally provided the impetus for passage of the Pendleton Act. There was broad recognition that partisanship needed to be removed from day-to-day government administration, and that merit and skill, not politics, should dictate government employment. The apolitical civil service, hired based solely on merit, and removable only for legitimate "good cause" became institutionalized with broad public support. It was the "good government" program of its time. Today, both "competitive service" and most "excepted service" positions are covered by laws protecting the civil service from politics and corruption.

A "merit-based" civil service system forms the cornerstone of all modern Western democracies. It ensures that technical expertise is brought to bear on performing agency missions, without the threat of overt partisan agendas driving day-to-day operations.

Agency career employees remain accountable to politically-appointed officials, but those appointees, and supervisors who serve under them, may not take actions against career employees for misconduct or poor performance without at least providing some evidence to back up the allegations and a level of due process to the employee, including third-party review by neutral decision-makers.

The Civil Service Reform Act (CSRA) of 1978 provides the modern-day basis for both selection of most career civil servants, and their protection from unwarranted personnel actions, including removals (unwarranted = motivated by politics, bias, etc.). This law protects the public from having their tax dollars used for hiring political partisans for non-political jobs, and helps ensure the efficient and effective provision of services to citizens.

The CSRA provides that employees may be removed for either misconduct or poor performance. The employee merely needs to be informed of his or her alleged deficiency and the reason that management proposes to take an action against him or her (removal, demotion, suspension, etc.).

Unlike prior law, the CSRA provided more bases for managers to take action against federal employees. Under the CSRA, employees may be removed for either misconduct or poor performance if:

- 1) the employee has been informed of the problem and the reason that management proposes to take an adverse action (e.g., removal, demotion, or suspension) against him or her; and
- 2) the employee has been given a reasonable opportunity to respond, both in writing and orally, if requested; and
- 3) the agency's final decision is adverse to the employee, (e.g., removal, demotion, suspension for more than 14 days).

An employee is subject to a final adverse action by an agency 30 days after receiving an adverse proposal. An employee may file an appeal to an adverse action to the Merit System Protection Board (MSPB), a third-party agency that hears and adjudicates civil service appeals. MSPB administrative judges (AJs) hear the matter in an adversarial setting and decide the case in accordance with established legal precedents. If dissatisfied with the AJ's decision, either the agency or the employee may appeal the decision to the full three Member MSPB.

The CSRA does not give unfair advantages to federal employees. Agencies generally prevail in 80% - 90% of all cases at the AJ level, and only about 18% of all AJ decisions are appealed to the full Board. AJs are upheld by the full MSPB in about 90% of all appealed cases.

It is very important to note that following an agency's adverse decision against an employee, the agency's decision is automatically put into effect (e.g., the employee is removed from the agency's rolls the day of issuance of the decision or within several days following the decision). An employee removed by an agency receives ***no pay*** during the appeal process. The MSPB appeal process is highly efficient and expeditious. Most AJ decisions are rendered within 70 days of the filing of an appeal. An appeal to the full MSPB from an AJ decision takes about 210 days. Meanwhile, the agency's decision remains in effect during the entire appeals process.

The importance of maintaining a nonpartisan, apolitical civil service in an increasingly partisan environment cannot be overstated. First, most federal jobs require technical skills that agencies simply would not obtain through non-merit based appointment. Second, career employees must be free to perform their work in accordance with objective professional standards. Those standards must remain the only basis for evaluating employee performance or misconduct.

Calls to make it easier to fire a federal employee by decreasing due process rights are "dog whistles" for making the career service subject to the partisan or personal whims of a few supervisors or political appointees. Whatever lack of public confidence in government exists today (usually because of political partisanship) will be

magnified a hundredfold if all civil servants become *de facto* political appointees, serving at the whim of supervisors.

It may be politically unpopular to admit this, but federal managers are already fully empowered under existing law to take appropriate action when employees are underperforming or engaged in misconduct. There is no group of people who object more to the continuing presence in the workplace of those who are not performing well or who may engage in misconduct than fellow federal employees. When someone doesn't perform up to speed, it simply means more work for the rest of the people who do perform well. Similarly, an individual's misconduct hurts all employees in the workplace, and it is usually fellow employees who are the first to shine light on misconduct, as they did at the Phoenix VA Medical Center in 2014. Without the protection of civil service laws, I can guarantee you that no employee will be foolish enough to come forward with evidence of mismanagement. Although whistleblower laws offer protection from retaliation for those who reveal certain types of mismanagement, the kind of routine mismanagement that was revealed by AFGE members at the Phoenix VA would not have occurred if the front line employees like scheduling clerk Pauline DeWenter were "at will."

Whistleblowers typically have to hire lawyers at great expense and litigate over extended periods of time during the course of which managers can retaliate. It took seven years for a civilian in the Marine Corps to successfully litigate his whistleblower complaint based on his internal report that showed how the Corps could have saved hundreds of lives by fulfilling a 2005 request for Mine Resistant Ambush Protected vehicles in Iraq. The idea that simply invoking whistleblower laws will somehow protect or encourage whistleblowing when an "at will" employment relationship exists is a fiction given the immense litigation hurdles, and financial and emotional stresses that whistleblowers have to incur.

In all my years with AFGE, I have yet to encounter a federal employee who supports those who do not pull their weight, performs poorly, or otherwise engages in misconduct.

The notion that federal managers lack adequate authority and tools to discipline those who engage in misconduct or who are poor performers is false. Despite the various protestations of some managers and management-associated think tanks, the Government Accountability Office (GAO), the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) have all issued reports and analyses that have come to pretty much the same conclusion: When poor performers are not dealt with it is never because the civil service laws or procedures are too difficult to navigate, but rather because some managers (or their managers) either do not want to take the time and effort to properly document poor performance and remove or demote poor performers, or because they lack the knowledge, skills, and ability to do this.

A recent GAO report, "Improved Supervision and Better Use of Probationary Periods Are Needed to Address Substandard Employee Performance," (GAO-151-191),

February 6, 2015, found four principal reasons why agencies do not use the already substantial tools they have available to them to remove the relatively few poor performers. All four reasons related to management failures and/or unwillingness to properly identify and document poor performance. AFGE would urge this Subcommittee to review GAO's well thought-out recommendations and its careful analysis of relevant statutes and regulations.

We are well aware that the campaign to reduce civil service protections is promoted through the suggestion that civil service due process procedures are just too difficult for some managers to follow. The goal seems to be to remove the employee immediately, and deal with due process in the future, if ever. This is a dangerous precedent if we want to maintain an apolitical and highly qualified civil service, especially in the current political environment.

The premise that the procedural hurdles for removing poorly performing employees are too high is simply not borne out by the facts. When an employee invokes his/her rights to a formal adjudicatory hearing before the MSPB, the agency almost always prevails. For example, in 2013, only 3% of employees appealing their dismissal to the MSPB prevailed on the merits. In contrast, agencies were favored at a rate five times that of employees when formal appeals were pursued. The charge that the MSPB makes it impossible to fire a federal employee is simply not true. Perhaps we should call it an "alternative fact."

GAO reviews and reports (e.g., GAO-15-191) have consistently found that the underlying reasons for permitting a small number of poor performers to remain in federal service are: (1) some managers' failure or (2) unwillingness to document poor performance in accordance with due process procedures available to them under the Civil Service Reform Act. The bottom line of the GAO report is that lack of performance management by some supervisors is the reason why poor performers are not dealt with expeditiously.

There are well-established and fully adequate processes and procedures for removing problem federal employees. This is true for performance or conduct reasons. In fact, the standards for removing underperformers were specifically developed so that poorly performing employees may be more easily dismissed than employees committing conduct-related offenses. Even more important, the burden of proof is lower for removing a poor performer -- it is only the "substantial evidence" test, so that reasonable supervisors are given leeway to determine what constitutes unacceptable or poor performance.

The real issue is some managers' reluctance to document employee performance in accordance with due process procedures. In 1978, Congress enacted the CSRA, which is the modern day statute governing civil service protections. In considering the law, Congress was specifically concerned about balancing the maintenance of a non-partisan civil service with the need for management to deal with poor performers, or unacceptable conduct. In fact, to facilitate agency managers' ability

to deal with poor performers, the CSRA added chapter 43 to title 5, which addresses performance issues.

The GAO report previously mentioned (GAO-15-191) suggests many reasons why a few managers are sometimes reluctant to address performance issues. It also explores the many myths surrounding removal of poor performers. GAO's report echoed findings of the MSPB in its report entitled, "Addressing Poor Performers and the Law" (September 2009). The fact is that the laws governing the removal of poor performers, primarily Chapters 43 and 75 of title 5, are straightforward and not unduly burdensome to agencies in any practical sense. The due process procedures inherent in these laws simply require documentation of communication that has occurred between the supervisor and the employee that addresses the performance or conduct issues. This seems to be very difficult for some supervisors, and is one area where both technical and assertiveness training may be in order. But the law is clear: agency supervisors have many tools available to them to address performance issues, and to remove poor performers.

#### **WHY DOES THE MYTH CONTINUE?**

Maintaining due process rights and avoiding arbitrary or politicized personnel decisions requires that decisions be properly documented, presented to the employee, and appropriately defended before any reviewing authority. While not an inherently complex or technically difficult process, it can cause discomfort, and diverts supervisors from work they may find more rewarding, or at least less stressful.

To address these issues, and to deal more effectively with poor performers, agency supervisors need to be properly-trained *and willing* to effect all of the performance management tools the law provides to them in the workplace. In addition, agencies must provide adequate support to supervisors, whether through human resources offices or through legal counsel, to address and steer a clear path to dealing with problem employees. Until this occurs, the myth will continue, and some workplace issues will go unaddressed by supervisors, and worst of all, the political campaign to eliminate the legal provisions that protect our nation from a politicized civil service will be in danger.

#### **DENIGRATION OF FEDERAL WORKERS**

As members of this Subcommittee are undoubtedly aware, continuing partisan attacks on the work of federal employees fuels a self-reinforcing feedback loop. Federal employees know they are punching bags. Morale plummets as a continuous stream of anti-federal worker proclamations, almost all false or highly exaggerated, emanate from elected or appointed leaders who inevitably complain that the penalty for alleged wrongdoing had not been severe enough.

Recently, the majority leader in the House of Representatives wrote an op-ed in the *Wall Street Journal* describing the "federal bureaucracy" as the entity that "poses the

greatest threat to America's people, economy and Constitution." Such rhetoric misleads people into thinking that career civil servants create statutes and regulations wholly apart from supervision by elected leaders and political appointees. In addition, it is absolutely false. Anyone who has worked in federal service will tell you that employees follow direction, whether that direction comes from Congress, the President or other politically-appointed officials. Career federal workers respond to and implement duly enacted laws and policies. They do not create laws or policies.

In all my years as an elected official of AFGE, I have never seen fit to denigrate my own staff. No leader should do that. There, of course, have been situations where employees have been disciplined or dismissed. But taking a battle axe to all employees and describing them in broad terms as "threats" to the American people heralds a new low in misinformation and outright dishonesty. As I told several news outlets: to call civil servants – one-third of whom are veterans – a 'threat to America's people, economy and Constitution' is a horrible insult to the men and women who dedicate their lives to the programs and services that benefit all Americans. I cannot fathom what motivated such a statement, but I think that we can all agree that such rhetoric is irresponsible and can have horrible consequences. Recall Timothy McVeigh and the bombing of the federal building in Oklahoma City in 1995 that killed 168 people and injured almost 700 others. McVeigh stated his motivation was to liberate America from the tyranny of its government. Any attempt to feed this kind of paranoia should be repudiated.

Rather than attempt to vilify the people entrusted with carrying out the laws and programs that Congress establishes, leaders should praise, or at least recognize, the hard and sometimes thankless work performed by federal employees. These are the people who deliver taxpayers' Social Security checks, inspect for safety the food we eat and the water we drink. They care for our veterans and maintain equipment for our troops. These proud and patriotic civil servants patrol our borders and ensure the safety of our skies and seas. Unjustified criticism and political rhetoric aimed at career federal workers only serves to hurt and undermine the work of those who are doing a good job, day in and day out.

I have often heard it said that the government should be run "more like a business." Without debating that notion, I will tell you that very few business leaders make it a point to publicly criticize and denigrate their own workforce. Just the opposite is true.

If Congress is serious about improving government agency performance, it will consider federal workers as an asset to be developed and fostered, not as a "whipping post" for the various policy differences that may exist among the political leadership of this country. Already federal workers have contributed over \$182 billion to deficit reduction during the past 8 years. Employee pay adjustments during this period have been very small (and in quite a few years there were no adjustments at all), and inflation-adjusted federal employee compensation has actually decreased. Rather than continuing to punish and vilify federal workers, we ask that Congress consider giving

agencies and supervisors appropriate tools to reward high performers. Freezes in pay, promotions and awards, and decreases in benefits whether directly or through more employee cost-sharing, do nothing to improve quality.

### **A BETTER WAY FORWARD**

History is replete with examples of public service corrupted by unfettered, politically-based employment decisions. That's why we continue to support a merit-based civil service system with appropriate due process, and checks and balances to ensure that both hiring and firing decisions be merit-based, and subject to meaningful review.

AFGE strongly supports improvements in agency performance management systems, such as the Defense Department's New Beginnings approach. We look forward to working with lawmakers and others to see this carried-out. AFGE also supports better training of both supervisors and employees so that clear expectations are established, performance is measurable, and appropriate steps are taken to either remedy performance problems, or to remove the small number of poor performers from the workplace. AFGE also recommends that Congress focus more on empowering and improving the quality of the workplace for the 99% of all federal employees who perform well. While we understand the need to deal with the 1% who may be problem performers, we must not allow the other 99% to be tarred and feathered with the same brush. Improving the lot of the 99% will further reduce the influence and tolerance for the 1% to remain employees. This starts with more proactive management.

AFGE will vigorously oppose the various iterations of "at will" employment being offered by some in the House. Such a system and its corrupting influences will destroy the professional apolitical civil service and return the country to the days of the "spoils system" of government employment.

### **CONCLUSION**

Attacks on government employees and the civil service in general may make for good politics, but they make for bad government. AFGE agrees that dealing with the very small number of problem employees is essential to sound public administration. At the same time, we must remember, and acknowledge, that the vast majority of federal employees perform well, and that agency systems and the laws and regulations governing employee performance are well-thought-out.

The issue is not whether the laws or regulations governing the civil service are adequate, but whether agencies, including managers and supervisors (and the political supervisors of career supervisors) have the training and will to implement current rules effectively. On this issue, and the important issue of recognizing the good work of the vast majority of federal employees, we are eager to work with you. Due process for civil servants provides accountability for both managers and political appointees and is a cornerstone of our system of democracy and public administration.



Thank you for your time and consideration and I will be happy to answer any questions you may have.



**STATEMENT FOR THE RECORD  
BY TONY REARDON, NATIONAL PRESIDENT  
NATIONAL TREASURY EMPLOYEES UNION**

**ON  
EMPOWERING MANAGERS: IDEAS FOR A MORE  
EFFECTIVE FEDERAL WORKFORCE**

**BEFORE THE  
SUBCOMMITTEE ON REGULATORY AFFAIRS AND  
FEDERAL MANAGEMENT  
COMMITTEE ON HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS**

**U. S. SENATE**

**FEBRUARY 9, 2017**

Chairman Lankford and Ranking Member Heitkamp, thank you for the opportunity to share my views with the Subcommittee. As National President of the National Treasury Employees Union, I have the honor of representing over 150,000 federal employees at dozens of federal agencies. NTEU welcomes the Subcommittee's interest in improving the federal workforce, and believes that the views of frontline employees, who compose the majority of individuals employed by the U.S. federal government, are relevant and meaningful when Congress is considering potential changes to personnel rules and processes.

#### ***MANAGEMENT TRAINING KEY TO WORKFORCE IMPROVEMENTS***

NTEU has long advocated for required managerial and supervisory training before this Committee, which would allow for better employer-employee relations through enhanced knowledge of personnel rules, employee rights, and performance management systems by federal management officials. In the 114<sup>th</sup> Congress, NTEU supported Ranking Member Heitkamp's legislation, S. 3528, the *Federal Supervisor Training Act*, which would provide federal managers and supervisors with training in their first year in these positions, as well as refresher training throughout their careers. We believe that supervisor training, accountability, and development are essential for effective human capital management in the federal government, and that the current lack of proper training among managers and supervisors is responsible for some of the current problems facing the federal workforce today. We were especially pleased to see that S. 3528 called for the development of competencies that supervisors are expected to meet in managing employees, as frequently managers are selected based on technical competency, but may lack supervisory abilities.

NTEU strongly supports manager and supervisor training that teaches these individuals how to lead organizations and people, including how to respectfully manage employees who are high-achievers and those who are struggling with performance. It is important that managers openly discuss performance goals and objectives prior to conducting the performance appraisal, and that they are fully aware of the need and the methods to reward job performance based on merit, and not on favoritism and other personal considerations. Skilled supervisors will be able to make effective use of new hires' probationary periods, and to observe due process requirements. Additionally, management should be skilled in how to promote employee engagement with frontline workers, who may often be unaware of high-level agency policy, mission, and funding changes and challenges.

An area that would benefit from managerial training is the implementation of the General Schedule (GS) system. Despite comments to the contrary, under the GS, non-performers can be denied pay increases, while outstanding performers can also be properly rewarded. However, supervisors need more training on the many pay and management flexibilities currently available to them under the GS. Further, training for managers in the area of hiring would also aid in agencies' hiring competent employees from the start. There is often little understanding on the

part of these officials on the various hiring authorities and the different requirements, including assessments, tied to them.

It is essential that federal supervisors and managers be familiar with prohibited personnel practices and the merit system principles and that they address employee reports of harassment and reprisal, as well as not seek to retaliate against employees who act—according to a legally protected right—as whistleblowers to report violations of laws and rules, abuse of authority, wasteful actions, and dangers to the public health and safety. The U.S. Merit Systems Protection Board (MSPB) cites “decreased individual and organizational performance” when management officials fail to uphold these principles (Keys to Managing the Federal Workforce, MSPB, January 2017).

### ***HIRING FREEZE AND ISSUES***

The Administration’s recently announced government-wide hiring freeze, and forthcoming “long-term plan to reduce the size of the Federal Government’s workforce through attrition” (Hiring Freeze, Memorandum for the Heads of Executive Departments and Agencies, January 23, 2017) will pose unnecessary management challenges that will only serve to hamper agencies from accomplishing their critical missions, and will result in an increased and non-transparent use of outside contractors. In its review of earlier hiring freezes, the Government Accountability Office (GAO) titled its 1982 work product, “*Recent Government-Wide Hiring Freezes Prove Ineffective in Managing Federal Employment*”. Workforce staffing plans that fail to take into account agency responsibilities, and work requirements and operations, are counter-productive, wasteful of tax dollars, and leave federal managers in a position where they are unable to manage their agencies and offices.

In fact, owing to an existing reduced level of funding, many federal agencies have been unable to hire new employees to replace departing workers for several years, and have already been forced into de facto hiring freezes, including at the Internal Revenue Service (IRS), which has experienced a dramatic decline in resources and staffing in this decade. Not only do hiring freezes create more of a work burden on the existing, smaller number of employees, they also lead to backlogs for the public. NTEU calls on Congress to reverse this latest hiring freeze, and to ensure that our federal agencies are given the proper amount of funding to fulfill their work requirements and to maintain needed staffing levels.

Of major concern to NTEU is that prior to the hiring freeze, U.S. Customs and Border Protection (CBP) has struggled to fill the initial 2,000 positions authorized by Congress in 2014. Not only is CBP not meeting its current staffing targets for federally funded CBP positions, CBP’s Workload Staff Model calls for Congress to fund the hiring of an additional 2,100 CBP Officers. One factor that may be hindering hiring is that CBP is not utilizing available pay flexibilities, such as recruitment awards and special salary rates, to incentivize new and existing CBP Officers to seek vacant positions at these hard to fill ports, including Portal, North Dakota.

Another major impediment to fulfilling CBP's hiring goal is that CBP is the only federal agency with a congressional mandate that all front-line officers receive a polygraph test. Two out of three applicants fail its polygraph—about 65 percent—more than double the average rate of eight law enforcement agencies according to data provided to the Associated Press. The eight other law enforcement agencies that supplied information showed an average failure rate of 28 percent. The U.S. Drug Enforcement Administration failed 36 percent of applicants in the past two years.

NTEU commends Congress' work last year to enact legislation and to include a provision in the Fiscal Year 2017 Defense authorization bill that authorized the CBP Commissioner to waive polygraph examination requirements for certain veterans applying for CBP job openings. NTEU does not seek to reduce the standards used by CBP in their hiring process, but believes that there may be a problem with how the polygraph is currently administered and asks for CBP to review its current polygraph policy to understand why CBP is failing applicants at a much higher rate than individuals applying to work at other federal law enforcement agencies.

Finally, NTEU strongly cautions the Subcommittee against the enactment of government-wide hiring provisions that would allow federal positions to be filled with a lack of public notice and without regard to appropriate deference to veterans' preference. These well-established merit principles have long benefited both the nation and our civil service. While federal managers need to be able to hire qualified individuals into federal service, public notice for federal jobs is what has ensured a non-partisan civil service, as well as a diverse workforce that reflects the American people. Agencies that rely heavily on direct hire authority and other hiring exceptions, have a troubling track record of less diversity in the workforce (Annual Demographic Report: Hiring and Retention of Minorities, Women, and Persons with Disabilities in the United States Intelligence Community, Fiscal Year 2015). NTEU remains firmly committed to fair competition, veterans' preference and adherence to merit principles for the hiring process.

Mr. Chairman and Ranking Member Heitkamp, in closing, NTEU supports training and development for federal managers, so that these officials have the required skill-sets to better lead, mentor, and engage frontline employees. However, we ask Congress to ensure that whatever changes are considered in the personnel area will not spur unintended management challenges, and that they will include the perspective of frontline employees, will not harm due process requirements and whistleblower protections, and will safeguard a non-partisan civil service that respects employees and the merit system protections.



**PROFESSIONAL MANAGERS ASSOCIATION**

*An Association for Federal Managers and Management Officials*

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February 9, 2017

The Honorable James Lankford  
Chairman  
Subcommittee on Regulatory Affairs and Federal Management  
Committee on Homeland Security and Governmental Affairs  
Washington, DC 20510

The Honorable Heidi Heitkamp  
Ranking Member  
Subcommittee on Regulatory Affairs and Federal Management  
Committee on Homeland Security and Governmental Affairs  
Washington, DC 20510

Dear Chairman Lankford, Ranking Member Heitkamp, and Members of the Subcommittee:

Thank you for the opportunity to submit written testimony to the Subcommittee regarding innovative ideas to enable a more effective federal workforce through the empowerment of managers. With a new Congress and new administration, this is also a time for new beginnings and PMA is grateful for the Subcommittee's commitment to identifying where government and workforce reforms can be made so that managers may best lead their organizations on behalf of the American taxpayer. As we examine this opportunity, it is imperative that we recognize what policies and programs are working well and which need to be updated to ensure the government is positioned to recruit and retain a talented and diverse workforce that can effectively and efficiently carry out the mission of the federal government to serve the American public. PMA stands ready to engage in this effort.

Formed in 1981 by managers at the Internal Revenue Service (IRS), the Professional Managers Association (PMA) is a national membership association representing the interests of professional managers, management officials and non-bargaining unit employees in the federal government. Over the past 36 years PMA has expanded to advocate and support for members at several federal departments and agencies. The focus of our organization is to be a voice for all managers, management officials and other non-bargaining unit employees.

**Today's Challenges**

The key to the functionality and success of every operation is the efficient management of an organization's finances. As Congress is charged with the authority and responsibility to appropriate funds for agencies and departments, the federal government looks to you for

consistency and sustainability. However, according to the Congressional Research Service (CRS), Congress has only passed all necessary appropriations bills on time in four years since 1977.

Ongoing continuing resolutions (CRs), in addition to across the board cuts to agency budgets due to sequestration, create uncertainty within the federal government and are counterproductive, costing the government more money in the long run by perpetuating and creating inefficiencies. Budget reductions lead to staffing reductions, which snowball into larger efficiency issues such as backlogs at customer service driven agencies and an inability to administer programs as proficiently as possible.

The current congressional budget process does not require consideration of realistic workforce assessments to determine if agencies have the capacity to carry out the tasks assigned to them by Congress, nor does it facilitate strategic workforce planning. With many of PMA's members employed by the IRS, we see firsthand the detrimental effects of budget uncertainty and reduction. While the IRS continuously sees millions of dollars in budget cuts every year, it remains the primary agency in charge of collecting revenue for the United States and therefore the frontline defense to reduce the deficit. As mandated by Congress, the mission of the IRS is to enforce tax laws, collect taxes, and conduct audits and, as with all federal agencies, every mandated function requires necessary funding and personnel to ensure the agency is able to effectively meet its mission.

The federal government is also facing challenges when it comes to recruitment of the next generation. Less than 7% of the federal workforce is made up of individuals under 30. Within the IRS, less than 3% of our 87,000 employees are under 30, with half of those employees working part-time. The institution of a hiring freeze coupled with recent furloughs, ongoing threats of government shutdowns and negative rhetoric from Congress regarding civil servants serve as serious detractors to prospective applicants to the federal service – particularly our millennial population.

### **Tomorrow's Solutions**

Congress must ensure a talented workforce is in place to manage programs innovatively and cost-effectively by providing managers with the tools to hire, retain and nurture the careers of skilled and dedicated individuals. By reducing the barriers faced by managers and the broader federal workforce, we can encourage a diverse pool of applicants to consider entering and building a career in public service, in addition to ensuring that agencies engage in strong and consistent recruitment, workforce development, and succession planning. The federal workforce should serve as a model employer in order to attract and retain the best and brightest from the American public into federal service.

#### ***Ending Sequestration and Streamlining the Budget***

PMA supports ending sequestration and encourages Congress to fulfill its obligation to agree to a budget and appropriate funding to agencies in a timely manner.

Additionally, many have suggested that Congress could streamline the budget process by switching to a biennial budget. Having a sense of the financial future for the next two or three years would allow agencies to better plan multi-year projects with the knowledge that they have the funding to complete them. This would also aid in the hiring and training process as agencies would know they have the funding for new employees and continuous employee development.

#### *Recruitment and Retention*

If we want to incentivize young people to pursue careers with the federal government, we must provide adequate compensation, benefits, and a workplace that is competitive with the private sector.

An analysis by the Government Accountability Office (GAO) found that federal employees with graduate and professional degrees are undercompensated compared to their private sector counterparts ([GAO-12-564](#)). Increasingly the government employs such individuals because they have the education and skills necessary to address the complex challenges agencies tackle on behalf of the American people, and it is essential that we remain competitive with our private sector counterparts to attract and retain top talent.

#### *Training, Development and Supervisor Selection*

Across the government, training and development of employees is often the first item to hit the chopping block when budgets are cut. No successful business would operate in this manner. Congress, through the appropriations process, should reserve a portion of every agency budget to the continuous training and development of its workforce. Training funds should be fenced so that the agency must spend that money on training and not divert it as soon as budgets tighten. Doing so will have a significant return on investment due to improved employee engagement, productivity, and performance.

The ability of the IRS to execute functions to their utmost capability has been stymied in recent years ([GAO-14-534R](#)), especially through cuts to the agency's training and travel budgets. According to a GAO report ([GAO-14-605](#)), since FY10 the agency has seen its training funding reduced by 83% and training-related travel reduced by 87%. Per employee training has been reduced from \$1,600 to \$200 between 2009 and 2013, despite the passage of significant new legislation with requirements the IRS must implement, such as the Foreign Account Tax Compliance Act (FATCA) and the Affordable Care Act (ACA). [The National Taxpayer Advocate's Annual Report to Congress](#) details training cuts of 74% to 96% across the agency's departments.

Whether it be misuse of government charge cards, engaging in prohibited personnel practices, or addressing poor performing employees, lack of training is cited in nearly every GAO and inspector general report identifying issues with the federal workforce. It is imperative that Congress ensure that agencies are training their employees, but further, that training requirements are not merely check-the-box activities but are those whose effectiveness is measured and assessed.



In the wake of “scandals” and a series of Inspector General (IG) and Merit Systems Protection Board (MSPB) reports that consistently point to a need for supervisor training to ensure accountability and proper workforce management, it is clear that a statutory solution is needed to ensure that such training occurs.

Current statutes provide limited oversight on agency requirements for training managers. Consequently, training is often cut when budgets are tight. Consistent training for all new supervisors and refresher training for current supervisors is necessary to ensure that supervisors have the tools and skills to effectively manage a large workforce and complex personnel systems, including, for example, those to discipline or remove problematic employees. Additionally, refresher trainings should be held every three years. PMA has long supported efforts to build upon current statute by providing guidance for agencies on the type and amount of training that should take place. We have supported requiring OPM to collect data from agencies on training being conducted and directing agencies to develop supervisor proficiency measurements based on OPM’s existing competencies.

In an effort to control costs and ensure that taxpayer dollars are well-spent, it is imperative that we examine several key factors. Before creating new training programs, agencies should search for efficiencies by first looking at other existing training programs and utilizing those to the extent possible. Agencies should also be given the flexibility to choose the manner in which to deliver training, from classroom instructor-led training to online seminars, enabling agencies to select the most effective and cost-efficient method.

Congress has legislated in this area before, with [the Federal Workforce Flexibility Act of 2004 \(P.L. 108-411\)](#), which directed agencies to provide specific training to develop supervisors and managers as part of a comprehensive succession management strategy. OPM published final regulations on Supervisory, Management, and Executive Development, [5 CFR part 412](#), on December 10, 2009. Yet despite the passage of a law and issuance of regulations, inadequate attention is still paid to supervisor training, development, and selection. Congress should conduct oversight on implementation of laws designed to strengthen supervisor and employee development.

Agencies must also provide training when employees make critical career transitions, for instance, from a non-supervisory position to a supervisory position or from manager to executive. This training should be consistent with assessment of the agency’s and the employee’s needs. It should also be conducted in a timely manner, occurring within the first six to twelve months of transition.

Supervisors and managers are the nexus between Government policy and action and the link between management and employees. For this reason, the supervisor’s proficiency in both technical and leadership skills is important for success. Effective supervisors increase employee motivation, communicate expectations, and ultimately increase organizational performance.

In 2011, the National Council on Federal Labor-Management Relations examined the federal government's performance management accountability framework and made recommendations for improvements. The need for a comprehensive supervisory training program is outlined in the Report to the National Council on Federal Labor-Management Relations—Getting in G.E.A.R. for Employee Performance Management. Specific recommendations for supervisory training include:

- Train individuals on creating performance expectations that are clear, accountable, verifiable, and focused on the mission, the public, and results
- Provide managers and employees with training on how to provide, receive, request, and use frequent feedback.
- Train both supervisors and employees on how to incorporate team feedback into performance.
- Identify and leverage current Government-owned supervisory and leadership training and tools.
- Incorporate a blended learning approach, based on agency needs, that includes both formal and informal training.

The effective utilization of training, in combination with a training needs assessment, supports a culture of engagement and aligns individual performance management with organizational performance management. This alignment of individual and agency goals and objectives also fulfills the requirements outlined in the GPRA Modernization Act of 2010.

PMA supports legislation to ensure that supervisors receive first time and on-going training and that OPM is given the authority to adequately oversee such training.

Managers would also benefit from a resource that can guide them in situations where they must deal with problem employees. Having a source similar to a labor relations office would ensure that these issues are properly handled and improve management morale. It is not uncommon to hear managers voice their concerns over disputes that involved a supervised employee and the union.

#### ***Extension of the Probationary Period***

Currently, most new employees are subject to a one-year probationary period. During this time, a manager is expected to train and review an employees' performance and make any necessary changes, including letting the employee go. Throughout the probationary period, employees are in an "at-will" status, giving a manager time to assess the employee's performance and ability to do the job while also having the ability to terminate the employee without using disciplinary channels.

However, many jobs require more than one year of training before an employee is fully functional and managers are unable to adequately conduct a performance review until training is complete. Many federal jobs are complex and require extended training or assessment before an employee is fully able to perform. Employees often must wait several weeks after

receiving their position before they begin formal on-the-job training. Training for these jobs can take several months, leaving managers with little opportunity to assess an employee's on-the-job capabilities.

Additionally, many of the jobs with lengthy training requirements are customer service-oriented and require not only formal technical training, but also time to get used to interfacing with the public. In some cases, even with on-the-job training and other supervision, an employee is not fully proficient at his/her job for several years given the unique nature of the workload.

In some instances, managers and employees even serve on rotational shifts and a manager may not work directly with the employee under the probationary period for more than a shift or two at a time.

Once an employee has completed an extended training period, the manager often has little time to assess the employee working at full capacity. If a manager feels that more training or counseling is necessary, the few remaining months of the probationary period are not sufficient for an employee to incorporate what he or she has learned and to show improvement, nor can the manager adequately assess the employee's performance and potential, and ultimately make a decision before the probationary period has lapsed.

If managers miss the one-year window to dismiss a failing employee, the burden of proof to justify removal becomes much greater if they decide to do so later. For that reason, managers have an incentive to dismiss the employee prior to the expiration of the one-year window even though the employee has not had sufficient time to show that they could master the job.

The probationary period should not be seen as "one size fits all," and PMA supports legislation extending the probationary period to two years for certain positions.

#### ***Manager Fairness and Appeals Updates***

Managers often do not receive adequate training on working with employees or dealing with problem employees. The proliferation of EEO, OSC, and other complaints and the complexity of the rules surrounding these cases make managers reluctant to deal effectively and quickly with poor performers and employee misconduct.

Increased emphasis on accountability through statutes such as the No FEAR Act makes managers even more reluctant to act against poor performers out of fear of an EEO or IG complaint, which can take up a substantial amount of their time and threatens to label them unfairly. It is imperative that we support managers when they have a problem employee, and when an employee misbehaves in a manner that is unacceptable for a federal worker, that person must be dismissed and we must support managers in this area. A labor relations office for managers dealing with these types of issues would be a step in the right direction.

While there are legitimate employee claims against their managers, some employees use the complaint process in an attempt to paralyze their managers. These charges clog the system and delay attention to justified complaints.

To combat this problem, PMA, as part of the Government Managers Coalition (GMC), support the introduction of a Federal Managers Fairness Act that would allow managers to participate during the EEO process, have the right to be consulted before a settlement, have the right to know when a case is filed and when it is finished, and be considered for lost benefits resulting from EEO complaints found to be without merit.

The Federal Managers Fairness Act would allow managers to be assured that they will receive fair treatment during the complaint process. It will also provide managers with one more tool to ensure that they effectively deal with employees and are not unfairly burdened by a system they do not fully understand.

Additionally, PMA supports consideration of proposals to consolidate various employee disciplinary adjudicatory forums (MSPB, FLRA, EEOC), which routes into one consistent system a more efficient structure to handle employee complaints and ensure that they are resolved in a timely manner.

#### ***Fixing the IRS Pay-For-Performance System***

IRS managers are subject to an alternate pay system that is comprised of 3 broad pay bands with compensation based on performance. PMA supports reforms that ensure that the pay and performance management system is fair, equitable, and truly rewards performance.

The system should have transparent and well-communicated pay levels and avenues for advancement. The agency should not impose arbitrary quotas to assign performance ratings or awards. Managers and non-bargaining unit employees should receive performance awards regardless of impending retirement or transfer of assignment prior to payment of award. Performance awards should not be denied to those managers and non-bargaining unit employees who are at the pay cap. Pay compression should be addressed to ensure that top level federal employees receive the full salary and locality payment they are entitled to.

#### **Conclusion**

Thank you for the opportunity to offer written testimony for this important hearing. PMA looks forward to working with Members of the Subcommittee to empower managers so that the federal government may best carry out its mission to serve the American public.

Sincerely,



Thomas R. Burger  
Executive Director