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before the

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

**Improving Performance:
A Review of Pay-for-Performance Systems
In the Federal Government**

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Statement for the Record

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

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I. Introduction

Good afternoon Mr. Chairman, Senator Voinovich, and distinguished Members of the Subcommittee. Thank you for the invitation to testify at today’s hearing. It is my pleasure to provide a status report to this Subcommittee on one of the Intelligence Community’s (IC’s) most important strategic human capital initiatives: the National Intelligence Civilian Compensation Program (NICCP). In this regard, I will describe the business and mission “case” for the NICCP; some of the principles we established to guide its design, development, implementation and evaluation and how we have addressed them in the several Intelligence Community Directives (IC Directives) that establish the system; and our phased implementation schedule. As requested, I will also pay particular attention to how we will prepare managers to administer the NICCP, as well as to how we will deal with the potential for bias and quotas in their evaluation of employee performance. In addressing these points, I would note that we recently provided this Subcommittee with a copy of a comprehensive report on the NICCP (along with its enabling IC Directives) that was requested last year by the House and Senate Intelligence Committees.

By way of background, the NICCP is modeled after the National Geospatial-

Intelligence Agency's (NGA's) innovative performance-based pay system, which has been operating successfully for a decade. The product of over two years of extensive inter-agency collaboration, the NICCP's five enabling IC Directives commit the DNI and the heads of the various departments and agencies that have the authority to set the pay of their IC employees to a common set of pay and performance management policies and practices; however, because of our complex statutory context (described below), they will be implemented via departmental and agency personnel regulations. For example, in DoD, the NICCP's Directives will be implemented as part of the Department's Defense Civilian Intelligence Personnel System, established by the Congress in 1996 under title 10, USC.

II. The Case for Action

Today's complex national security challenges underscore the need for an IC workforce that is second to none. Outmoded civilian personnel policies and practices, especially those dealing with pay and performance management, are an impediment to excellence. The NICCP is our response. It will establish a 21st century pay and performance management framework for the U.S. Intelligence Community, one that is far more performance-based and market sensitive than the General Schedule. It will also transcend departmental and agency boundaries to better integrate and unify the IC. That is the essence of our "case for action."

First, and most importantly, the NICCP is designed to transform the IC. That is the mandate given the DNI, and this effort may be one of its most powerful levers. As I will discuss in a moment, the NICCP serves as a unifying force, helping to bind the Community together. That is transformational in a general sense. However, in my view, its potential impact is even greater at the individual and organizational level. In this regard, the NICCP includes a set of IC-

wide performance management principles and policies that, among other things, require that IC employees be evaluated on such transformational behaviors as personal leadership and integrity, collaboration, and critical thinking. Likewise, their managers will be assessed on how well they promote and enable these behaviors. These “performance elements” are at the heart of intelligence reform, and when they are linked to performance and pay, they will help foster a new, more integrated and collaborative IC culture.

Second, the NICCP will, to the extent permitted by law, assure a “level playing field” among the 17 agencies that comprise the IC. The importance of this cannot be overstated. Unlike the rest of the Federal civil service, most of the major IC agencies fall outside the coverage of title 5 of the US Code (USC), as well as the rules and regulations of the Office of Personnel Management (OPM). For example, personnel authorities for the Central Intelligence Agency (CIA) and the Office of the Director of National Intelligence (ODNI) are codified in title 50 of the Code, whereas Department of Defense intelligence agencies have their own personnel authorities under title 10. In addition, the Congress has authorized both the Department of Homeland Security and the Federal Bureau of Investigation to waive certain key title 5 provisions (for example, those dealing with pay and job classification). When you include those IC elements that remain under title 5, there are no fewer than six separate personnel systems covering IC employees.

In fact, after much collaboration, we have managed to create an overarching compensation framework that cuts across the lines of 17 agencies (15 of them in six cabinet departments) that comprise the IC and binds them together under a common set of pay and performance management policies. That is what may make the NICCP unique... to my knowledge, it is the first performance-based pay system in the Federal government with an inter-

departmental and inter-agency scope, and it may serve as a model for the Congress and OPM as you contemplate government-wide pay reforms.

Finally, the NICCP will enable the IC to better reward excellence and expertise, a critical consideration when you have set about to build a workforce that must literally “know something about everything.” We also believe this will improve our ability to recruit and retain the best talent.

While I will be pleased to answer any questions the Subcommittee Members may have regarding the details of the NICCP’s “architecture” and enabling Directives, I would like to focus the remainder of my statement on three topics that I believe are of interest to Subcommittee Members: (1) how we solicited employee input and feedback in designing the NICCP, and the nature of that input; (2) our plans for ensuring that supervisors and managers are fully prepared for their responsibilities under the NICCP; and (3) the various safeguards and oversight mechanisms we have established to ensure the NICCP is implemented and administered in a way that is merit-based, credible, and transparent.

III. Employee Engagement

In designing the NICCP, we paid particular attention to those guiding principles identified by OPM and the Government Accountability Office as being essential to the success of a pay-for-performance system. Indeed, we went so far as to memorialize them in one of our IC Directives. Perhaps the most important of those principles concerns employee involvement and engagement, and we have made this one of our top priorities.

Our annual IC Employee Climate Survey served as our starting point. While our most recent survey results from 2007 are encouraging – our employees continue to rank the IC among

the top Federal employers – there are still areas for improvement, and a number of them will be addressed by the NICCP. For example, less than one-third of our employees believe their pay raises depend on how well they perform on the job, and less than half see a linkage between performance and promotion; conversely, less than a third of our workforce believes that management takes steps to deal with poor performers. These results are consistent with our 2005 and 2006 surveys, and they suggest that the vast majority of the IC’s employees want a stronger linkage between performance and pay, promotion, and retention decisions.

To supplement our surveys – and directly engage our employees in the design of the NICCP – we also commissioned a series of employee focus groups in each of the major IC agencies, beginning in early 2006. In all, several hundred employees and supervisors were asked for their views on performance-based pay, and we took it upon ourselves to ensure that we addressed each and every one of them in the final NICCP design. For example:

- Many employees were worried that in “breaking away” from the General Schedule system, IC payrolls would be short-changed, so one of our IC Directives specifically commits the IC to submit civilian pay budget requests to the Office of Management and Budget (OMB) and the Congress that are no less than the amount that would have been budgeted had the IC remained under the General Schedule.
- Employees were also worried that their salaries would not keep pace with the cost of living if across-the-board GS pay increases were to be put “at risk” in the performance-based pay process, so another of our IC Directives states that all IC employees who receive a performance rating of “Successful” or higher will receive the full GS increase, plus any applicable locality adjustment. However, employees rated “Unacceptable” will not receive either of those increases, nor will they be eligible for performance pay.

- Some employees were concerned that pay-for-performance would force employees to compete against one another and discourage collaboration and teamwork, so one of our IC Directives specifically requires every IC employee, manager, and executive to be evaluated on how well they collaborate with their peers and co-workers. Other employees were concerned that they would feel compelled to simply tell their leaders what they wanted to hear in order to get a high rating, so that same Directive requires that employees be evaluated on their personal integrity and their willingness to “speak truth to power;” That Directive also requires that managers and executives be evaluated on whether they encourage their employees to do so.
- Finally, most employees expressed misgivings about the ability of their supervisors and managers to effectively administer a performance-based pay system, so we adopted a mathematical formula developed by the NGA as a basis for calculating an employee’s performance pay increase. The formula is based on such objective factors as the employee’s performance rating and current salary, the ratings distribution in the performance pay “pool,” and the funds allocated to that pool. Note that this formula produces a *preliminary* payout...that amount can be changed by higher-level management, but only with full justification, full disclosure, and approval by an even higher level of management.

Most of the IC Directives containing these provisions were signed by the DNI in April and May 2008, and our departments and agencies have now begun the process of communicating with their employees through a variety of means to inform them of the changes that are underway. Our agencies have already held dozens and dozens of town hall meetings

and focus groups and conducted world-wide Web and satellite broadcasts; they have also used intranet Web sites and even blogs to get the word out. These efforts have reached thousands of employees and will continue throughout implementation.

IV. Safeguards and Oversight

If the NICCP is to accomplish its goals, our employees must regard it as fair, credible, transparent, and above all, merit-based. Further, we must make certain that nothing we do under its rules unlawfully impacts minorities, women, and members of other legally protected classes in the IC. These words have been codified as NICCP guiding principles in our IC Directives, and those Directives establish rigorous IC and agency-level planning, oversight, and accountability mechanisms to ensure that we stay true to them.

For example, our Directives require that all employees receive written performance expectations at the start of the performance evaluation period, and undergo a mid-year review to receive feedback on their performance. Further, all end-of-year performance appraisals will be subject to at least two levels of management review and approval before they are finalized, including an agency-level review specifically intended to protect against any unlawful discrimination and ensure agency-wide consistency. In this regard, the Directives prohibit any sort of ratings quota or forced distribution. Employees dissatisfied with their final rating may request reconsideration from a management official above and/or outside their rating chain, and of course, our employees always have the right to file a grievance, appeal, or complaint regarding their rating, in accordance with their agency's regulations.

Once ratings are finalized, the separate performance pay process begins. We bifurcated these processes deliberately, to alleviate employee concerns that ratings would be changed after

the fact, once pay deliberations began. Instead, an employee's final rating is taken as a "given" in the mathematical formula we have adopted for calculating an employee's preliminary performance pay increase. However, the amount initially provided by the formula can be changed by a higher level of management, but only in accordance with published criteria, approval by an even higher level of management, and full documentation and explanation to the employee. In this regard, performance pay increases are subject to two additional levels of management review – first by a pay pool panel (typically led by a third-level manager or executive) and then by agency-level officials, again to ensure consistency and protect against unlawful discrimination.

Finally, to oversee the entire NICCP effort, from design and initial deployment to administration and evaluation, the DNI has established an IC Human Capital Board. Chaired by the Principal Deputy Director of National Intelligence, the Board is comprised of the Deputy Directors or equivalents of the major IC agencies and elements, as well as the Principal Deputy Under Secretary of Defense for Intelligence; membership also includes the IC's Chief Human Capital and Chief Financial Officers, as well as the ODNI Chief of Equal Employment Opportunity and Diversity.

Among other things, the Board is charged with assessing the "readiness" of each agency at each major NICCP implementation milestone, using a comprehensive assessment tool (developed by the Office of the Under Secretary of Defense for Intelligence and adapted for IC-wide use) to examine and evaluate an agency's progress against detailed implementation standards – for example, completion of pre-implementation supervisory and managerial training. In addition, the Board will review the overall results of each NICCP performance appraisal and performance pay cycle to ensure IC-wide consistency and transparency.

V. Training: the Key to Success

Last, the Subcommittee asked that we describe the training we intend to provide as part of NICCP implementation, as well as on an ongoing basis thereafter. In close collaboration with our departments and agencies, especially DoD, we have developed and have begun delivering a comprehensive training curriculum for senior executives, managers and supervisors, human resource (HR) specialists, and employees that covers not only the technical aspects of the NICCP and its various departmental and agency implementing instructions (that is, the mechanics of the system), but also the “soft” skills that are just as critical – such things as setting clear performance expectations, monitoring performance and giving constructive feedback, and making (and explaining) performance distinctions among employees. I have included a chart in my written statement that summarizes all of the hours and days of training associated with the implementation and administration of the NICCP, especially for supervisors and managers, and it is already being delivered in the Defense Intelligence Agency (DIA) and the other DoD components that will implement the NICCP later this year.

Of particular note is the extensive training we will provide to those management officials who will be involved in the actual performance pay-setting process; they have a special responsibility, and we intend to invest heavily in their training to ensure that they are able to meet it. For example, managers who serve on pay pool panels – that is, those officials that have the authority to approve or adjust an employee’s preliminary performance payout – will receive no less than 2 and as many as 3 days of intensive training that among other things, will equip them to identify and correct any implicit or unintentional bias against women or minorities in the performance evaluation and pay-setting process., The bottom line: we know how critical

training is to our success, and we will not shortchange it in any way.

VI. Event-Driven Implementation

The IC will phase in the NICCP over the course of the next five years. It will be implemented agency by agency, beginning with DIA this fall, with most remaining Defense agencies and the FBI implementing 12-15 months later, through the end of 2009. The CIA and the Office of the DNI will follow about a year after that (in late 2010), with our smaller elements converting in FY 2011 and 2012, Congress permitting. The costs associated with implementation (training, HR information systems reconfiguration, etc.) and conversion (that is, salary increases to compensate converting employees for the amount they've earned towards their next increase in compensation are fully funded in the National and Military Intelligence Programs of record.

This timetable notwithstanding, implementation will ultimately be event-driven, based on the "readiness" of each IC agency, rather than on an arbitrary calendar date. For example, the NICCP Directives require the IC Human Capital Board to regularly review each agency's progress against its implementation plan, as well as against the standards established by our readiness assessment tool; in addition, the Directives identify three major pre-implementation milestones and require an IC agency head to certify (subject to review by the Human Capital Board) that the agency has completed all of the actions specified at each milestone – for example, that the agency has trained all of its supervisors, or that it has successfully conducted a "mock" performance pay exercise – before proceeding to the next implementation stage. Thus, we are proceeding carefully. No IC agency will implement the NICCP before it has been certified as ready to do so.

However, we will need some additional assistance from the Congress in order to fully realize the promise of the NICCP. As it stands today, all of our largest agencies – that is, those that employ the vast majority of IC employees – already have sufficient statutory authority (albeit derived from a variety of different statutes) to fully implement the NICCP’s policies; indeed, most are not bound by title 5 of the US Code and OPM rules. That is not the case with our smaller elements; they are so bound, and as a result, will not be able to take advantage of the NICCP. They simply do not have the legal authority to do so.

This is problematic; while these other agencies – in the Departments of Justice, Energy, Treasury, and State – are full-fledged members of the IC, funded by the NIP and critical to the National Intelligence Strategy, they will be placed at a competitive disadvantage relative to their IC peers when it comes to compensating their employees. They will also be unable to share other personnel flexibilities (such as deployment incentives, foreign language incentive pay, and various student scholarships) that have been authorized for one or more but not all IC agencies over the years. In other words, without additional authority, they will no longer be on a “level playing field” with their sister agencies.

To remedy this, the Administration’s FY 2008 Intelligence Authorization request proposed that the DNI be authorized to take personnel flexibilities that Congress had already granted to one IC agency and extend them to one that did not have those flexibilities. In the case of an IC agency covered by title 5 USC, that extension would require OPM and departmental concurrence, as well as congressional notification. The Senate included that provision in its final FY 2008 Authorization, but the provision was not accepted in conference. The Administration requested this proposal again this year, as part of the FY 2009 Intelligence Authorization request, and the Senate Select Committee on Intelligence has again included it in

its Intelligence Authorization Act, S. 2996. We urge the Subcommittee's support.

We also need congressional assistance in another critical area: executive pay compression. This is a problem quite familiar to this Subcommittee, one that was temporarily fixed four years ago with major reforms to the Senior Executive Service (SES). At that time, the Congress raised the SES pay cap to Executive Level II on an agency-by-agency basis – and only if OPM and OMB “certified” that an agency meant certain rigorous standards. Those changes were welcome, but their benefits have been eroded by the passage of time.

Here is the problem: each year, the locality-adjusted General Schedule increases at a greater rate than the Executive Schedule, and since locality-adjusted rates for GS-15 employees are capped by that Executive Schedule (at Level IV), the “real” salary potential for GS-15 employees continues to shrink. This is especially problematic in a performance-based pay system, because it reduces the base pay potential available to an agency's highest non-executive performers. It is just as problematic for executives. Those who perform at the highest level should expect to be rewarded with base pay increases that exceed the annual Executive Schedule adjustment, but if they are – and if they continue to perform at that high level year in and year out – our best and brightest executives quickly reach the cap. Once there, their base pay increases are limited to the annual Executive Schedule adjustment...no matter how well they perform. And high-performing GS-15s are less likely to aspire to the SES if the relative financial rewards continue to erode.

Simply put, pay compression undermines pay-for-performance; and it will eventually squeeze our best senior managers and executives out of Federal service. The Administration (this one as well as the next) and the Congress must begin to address this issue now, before it becomes a crisis.

VII. Conclusion

The NICCP, with its foundation of common pay and performance management policies, is an essential ingredient in the IC's transformation. It will help us develop and sustain a stronger sense of unity and common purpose across the IC, and that translates into mission success – the ultimate aim of the Intelligence Reform and Terrorism Prevention Act.

In that regard, we in the IC are proud of the NICCP, not so much because of its substance (although we believe that the design will prove to be successful) but rather because of the unprecedented process we followed in developing and now implementing the system. As I have noted, we believe the NICCP is the first pay-for-performance system that is truly inter-departmental and inter-agency in nature, conceived through intensive collaboration and carefully balancing the need for both uniformity *and* flexibility. And we did it in one of the Federal government's most demanding mission environments, working through a complex web of laws and a legacy of agency autonomy and independence. If we can do it under these most challenging conditions, so too can the rest of the Federal government.

Thank you very much. I look forward to answering any questions the Subcommittee may have.