STATEMENT OF

WILLIAM R. DOUGAN

NATIONAL PRESIDENT
NATIONAL FEDERATION OF FEDERAL EMPLOYEES

BEFORE

U.S. SENATE SUBCOMMITTEE ON REGULATORY AFFAIRS AND FEDERAL MANAGEMENT

REGARDING

IMPROVING PAY FLEXIBILITIES IN THE FEDERAL WORKFORCE

OCTOBER 22, 2015

Established in 1917, the National Federation of Federal Employees is the oldest union representing civil service federal employees. NFFE represents 110,000 federal employees in 35 departments and agencies government-wide. NFFE is affiliated with the International Association of Machinists and Aerospace Workers, AFL-CIO.

The History of the General Schedule Pay Schedule

The General Schedule (GS) pay system was established by the Classification Act of 1949, creating a uniform system of compensation for federal employees, "equal pay for equal work". At the time the GS pay system was created, employee compensation was simply seen as the cost of labor – a definition that has evolved rapidly in recent years. In an attempt to keep up with the fluid definition of employee compensation, the GS system has undergone modifications to accommodate industry changes. What resulted was a system to account for regional economic trends and the introduction of numerous pay flexibility options, including performance bonuses and quality step increases.

In this testimony I will examine the GS pay system structure for setting competitive pay rates, as well as pay flexibilities already available to recruit and retain the qualified workforce necessary to carry out the business of the American people. I will also discuss what future compensation supplemental options the federal government may consider – including expanding family-friendly workplace policies, increased availability of telework status and a commitment to employee work-life balance.

While the GS pay system was developed 60 years ago, at a time when the economy and workforce looked significantly different, modifications have been made over the years to adapt. While the system we have now is less than perfect, it serves the federal government and the American people well.

Establishing Locality Pay

In the late 1980s, Congress began to recognize that the pay disparity between federal employment and comparable private sector work was expanding nationally, and was particularly unequal in metropolitan regions with high costs of labor (*ex*. New York, NY; Washington, DC; San Francisco, CA). So in an effort to reduce federal and matching non-federal salary disparity, Congress passed the Federal Employees Pay Comparability Act (FEPCA) of 1990. The law's stated goal was to reduce the "pay gap" between federal and matching non-federal to a "target gap" of five percent and introduced pay localities as the vehicle to reduce disparities.

With FEPCA came a new two-pronged approach to applying yearly pay adjustments for GS employees. One portion of the yearly pay adjustment was to be a general across-the-board adjustment linked to the Employment Cost Index, and a GS locality pay adjustment calculated and applied separately to individual localities across the country. It was thought that this system would allow for the high labor cost regions to bring their pay disparities in line with other regions of the country.

To oversee the administration and adaptation of pay localities, FEPCA created the Federal Salary Council (FSC). The FSC, consisting of federal labor representatives with large GS employee membership and outside compensations experts, reports to the President's Pay Agent, which in turn makes recommendations to the White House.

Since 1994, the FSC has examined troves of data collected by the Office of Management and Budget, Bureau of Labor Statistics (BLS) and other federal agencies to effectively define locality pay parameters. And while statistical models used to calculate localities and their respective pay have evolved over time,

the ultimate goal of making the federal government a competitive employer – able to recruit and retain the most effective workforce – has remained the same.

The number of Locality Pay areas in the GS system has changed and will likely continue to change over time. Currently there are 34 GS Locality Pay areas, but FEPCA allowed for the establishment or modification of pay areas by the President's Pay Agent, a body which gives thorough consideration to the views and recommendations of the Federal Salary Council. As non-Federal pay in various parts of the country fluctuate, new GS locality pay areas may be established. Generally, the President's Pay Agent would act on the recommendation of the Federal Salary Council to establish a new Locality Pay area. Although criteria for establishment of a new Locality Pay area has changed slightly over the years, currently it requires a minimum number of GS employees working in a metropolitan area, and pay gaps averaging more than 10 percentage points above that for the "Rest of U.S." locality pay area for an extended period of time, to trigger a recommendation for the establishment of a new Locality Pay area from the Federal Salary Council.

What about Wage Grade?

The trend in the Federal Wage System has been slowly toward consolidation of wage areas as opposed to expansion. Unlike the GS system that has Locality Pay areas in and around metropolitan areas with consistently high earning workforce and all other areas of the country falling into one catch-all "Rest of U.S." Locality Pay area, every county in the U.S. fits into one of the 131 federal wage system wage areas spread throughout the country. In recent years consolidation of wage areas has been driven by changes in WG employment and other factors. Changes in the definition of a FWS wage area are generally considered by the Federal Prevailing Rate Advisory Committee, which makes recommendations to OPM on matters concerning the pay of FWS employees.

Existing Pay Flexibilities

For General Schedule (GS) employees, existing pay flexibilities primarily fall within three areas: recruitment incentives, relocation incentives, and retention incentives. Agencies have discretionary authority in certain circumstances to help support efforts in recruiting and retaining employees.

Recruitment Incentives

Agencies can pay a recruitment incentive to a newly-appointed employee if the agency has determined that the position is likely to be difficult to fill in the absence of an incentive. Eligible employees include employees on GS, senior level (SL), scientific (ST), Senior Executive Service (SES), Executive Schedule (EX) and law enforcement officers.

Agencies must document the basis for determining that the position is likely to be difficult to fill in the absence of a recruitment incentive. The quantity and quality of goods and services offered within the geographic location of the position duty station, or the shortage of potential candidates possessing the competencies needed for the position are the two most common reasons agencies will offer recruiting incentives.

Recruitment incentives take the form of a payment not to exceed 25 percent of the employee's annual rate of basic pay at the beginning of the service period (the amount of time the employee must agree to remain employed in the position) multiplied by the number of years in the service period. With OPM approval, this cap may be increased to 50 percent based on a critical need, as long as the total incentive does not exceed 100 percent of the employee's annual rate of basic pay at the beginning of the service period. The incentive can be paid as a lump-sum payment, in installments, or in a combination of these methods.

Employees getting a recruitment incentive must maintain a record of "Fully Successful" performance; demotion or separation for cause will terminate the incentive.

Relocation Incentives

Agencies can pay a relocation incentive to a current employee who must relocate to accept a position in a different geographical area if the agency determines the position is likely to be difficult to fill in the absence of an incentive. Eligible employees includes the same groups of employees as those listed above for recruitment incentives. The employee must establish and maintain a residence in the new geographic area for the duration of the service agreement. The most common reason for offering relocation incentives is having the position located in a geographic area where affordable housing (based on the salary of the position) is lacking or limited.

Similar to recruitment incentives, the payment for relocation incentives is not to exceed 25 percent of the annual rate of basic pay at the beginning of the service period multiplied by the number of years in the service period, with the option of increasing the cap to 50 percent with OPM approval. These incentives have the same options for payment of the incentive as recruitment incentives.

Retention Incentives

Retention incentives are offered to employees who possess unique qualifications if the agency has a special need for an employee's services such that it makes it essential to retain the employee and that the employee would be likely to leave absent a retention incentive. Retention incentives take two different forms: retention incentives can be offered to employees who occupy a position that may or would be affected by a closure or relocation of the agency office or facility, and who would be likely to leave for a different position in the Federal service prior to the closure or relocation; or, retention incentives can be offered to employees who have qualifications that make it essential to retain the employee, and the employee would be likely to leave the Federal service absent a retention incentive. The same group of employees would be eligible for this incentive as for the previously discussed incentive, with the identical 25 percent cap with option to increase the cap up to 50% with OPM approval.

Options for payment of retention incentives are slightly different from options for recruitment and relocation. Payment of retention incentives can be made in installments over the period of the service period or as a single lump sum payment upon completion of the specified period of service required by the service agreement.

An agency cannot begin paying a retention incentive during the service period established by an employee's recruitment or relocation incentive service agreement. However, a relocation incentive may be paid to an employee who is already receiving a retention incentive.

Federal Wage System Pay Flexibilities

Federal Wage System (WG) pay flexibilities allow for the use of special pay rates and special schedules, with the approval of OPM, for occupations experiencing difficulties recruiting or retaining WG employees.

The special rate authority allows an agency to establish rates above the regular Federal Wage System rates for occupations experiencing recruitment or retention difficulties. These special rates are established by occupation, grade, agency and/or geographic location. The rates are paid by all agencies having positions for which the rates are authorized.

The increased minimum hiring rate authority allows an agency to establish any Federal Wage System scheduled rate above step 1 as the minimum rate at which a new employee can be hired.

The special schedule authority allows an agency to establish a Federal Wage System schedule of rates broader in scope than would normally be authorized under the special rates program. Special schedules

are established to ensure the recruitment or retention of qualified employees or to address unique agency missions. Specific special schedules are established for specific occupations within a geographical area.

OPM may approve exceptions to a statutory limitation on Federal Wage System pay adjustments for an occupation in a wage area or part of a wage area upon agency request if such exceptions are necessary to ensure the recruitment or retention of qualified employees. The lead agency for the wage area must coordinate with other agencies to produce an employing agency's request for this exception and submit a consolidated request to OPM. The request must include any available supporting wage survey data and formal recommendation by the lead agency to approve or disapprove the request.

Where does this Leave Us?

This hearing was established to determine if the federal government pay system has the flexibilities to meet the growing challenge of recruiting and retaining the best candidates to the federal workforce. The short answer is yes, it does. The federal government has a clearly-defined and collaborative system developed to make adequate pay adjustments for federal employees that account for various regional and national economic factors in a reasonable timeframe – and the flexibilities to supplement compensation in situations of unique employment obstacles. But what the federal government does not have, and what has largely led to the 35 percent pay disparity between federal and matching non-federal salaries as measured by BLS, is a Congress and Administration willing to allocate the necessary funds to fully implement the FEPCA "target gap" of five percent.

Further exacerbating the pay disparity is the President's unwillingness to enact recommendations from the FSC made to the President's Pay Agent in creating new pay localities. It was only recently that OPM announced the creation of 13 new pay localities. While we are thankful that these locality recommendations have been accepted, it has been nearly three years since the FSC originally recommended 12 new locality pay areas to the President's Pay Agent. The original recommendation came in November 2012. It is worth noting that the 13th pay locality, Kansas City, Missouri, was recommended in a subsequent meeting.

Within FEPCA lies a provision allowing the President to ignore the pay adjustment formulas set forth in the law and establish an alternative pay adjustment, in the case of "national emergency or serious economic conditions affecting the general welfare." With the President enacting this provision for years in issuing pay adjustments below the FEPCA-calculated levels (including three years of pay freezes), he applied similar logic in refusing to accept the new pay localities recommended by the FSC nearly three years ago.

So why were these recommendations not implemented in a timely fashion following the 2012 recommendations made by the FSC? In short – it stems from the austerity-driven budget mentality of Congress and the Administration. In what should be a routine exercise of sampling regional and national economic trends to make annual pay adjustments has become a perennial political lightening rod.

For too many years, including nearly every year in this current Administration, federal employees have endured pay adjustments (or lack thereof) that have failed to keep pace with the annual rate of inflation. This means that each year it is becoming more difficult for an employee to remain with the federal government. All the while, federal employees have been a favorite target of Congress to make deeps cuts in the name of balancing the federal budget. All told, recent estimates indicate that the federal workforce has sacrificed $159 billion in cuts over the last five years.

And right now we are experiencing the consequences of the unwillingness from the Administration and Congress to provide adequate pay adjustments. Federal employees are losing buying power every year they continue their federal employment, and the dissatisfaction shows in the annual Federal Employee

Viewpoint Survey results. Furthering this dissatisfaction is the recent phenomenon of Congress taking the country to the brink of a government shutdown with regularity, essentially casting the lives of federal employees into a turmoil. Add on top of all of this the volatile and nasty rhetoric used every day by members of Congress decrying hard-working federal workers as "government bureaucrats" and it is no wonder the federal government is severely hampered in its ability to recruit and retain the next generation of talent into the civil service.

Unfortunately, this country's problems with hiring the best and brightest are mostly self-inflicted. What might be considered easy political points when taking benefits away from federal employees or decrying "big government" on national news outlets – these actions have real consequences, and they come in the form of a demoralized workforce and difficulties hiring the next generation of civil servants.

Where do we go from here?

So the question is – now what? Despite having a relatively flexible pay locality system clearly outlined by law, we still lag in making the federal government a competitive regional employer in too many regions – losing the best and brightest to private sector employers that can offer higher salaries and greater workplace flexibilities. The federal government must be able to compete for the next generation of leaders, and there are many options in doing so.

The simplest solution to ensuring federal government salaries remain regionally competitive would be for Congress and the Administration to fully fund FEPCA-calculated annual pay adjustments, combined with additional adjustments for the localities suffering the greatest pay disparities. In addition, the Administration needs to place full faith in the Federal Salary Council and accept, with haste, recommendations made to the President's Pay Agent.

But other options outside of simple pay adjustments must be considered, as they are quickly becoming industry standard in the private sector. Two of the most common non-compensation flexibilities that need to be given more consideration are telework and flexible work schedules.

While telework continues to be implemented in many agencies across the federal government, the pace of establishing telework is much slower than it should or needs to be. Major barriers to telework in some agencies include lack of trust that employees can actually be efficient and effective in completing work assignments outside of the agency office setting, and perceptions about what work can be done by telework versus having to do that work in the office leading to fewer positions being eligible to telework. Organizational cultures that value the status quo and the way things have always been done also make telework implementation difficult.

Despite these concerns, research has demonstrated that telework does not lead to lowered productivity; indeed, employees will go the extra mile to ensure work of high quality gets accomplished in a timely manner in order to continue to be eligible to telework. Telework offers other important benefits to the agency and to society: with a workforce that teleworks, it is possible to reduce office space, resulting in significant savings in costs associated with owning or leasing buildings; and, reducing the number of days the workforce must come to the office results in less use of vehicles for commuting, reducing traffic and vehicle emissions.

Flexible work schedules, such as "maxi-flex" and other flexible alternative work schedules to the standard 8-hour workday, 5 days a week schedule, offer workers the ability to adjust their start and stop times during the day as well as adjust what days of the week they work. Being able to offer alternative flexible work schedules to a diverse workforce allows workers to fit in the other important "non-work" activities into their day. For example, working parents often have childcare, school activities and sporting events occurring during the traditional workday. A flexible work schedule makes it much easier to schedule an

appointment with the pediatrician, to “plan for the unexpected” involved with raising children or simply be able to arrive to a child’s sporting event on time.

Both telework and flexible work schedules are powerful incentives to many younger workers, who may not have ever worked in an office setting every day on a fixed 8-hour schedule. Older workers often start out somewhat skeptical of telework, but most will quickly adapt to working from home. And a flexible work schedule makes it easier to schedule the other activities that occur in their lives outside of work.

There are other incentives not currently available in the federal government that are being successfully used in the private sector. Being able to offer a newly-hired employee more hours of annual leave than they would otherwise be entitled to is a powerful incentive. Some organizations in the private sector use this concept to great advantage in being able to recruit high-quality candidates for either hard-to-fill positions or positions that demand a highly-skilled employee to immediately fill the position and begin performing at a high level. Many employees place a high value on being able to earn, and use, larger amounts of annual leave; for some, it is a bigger motivator than offering them a higher starting salary.

Unlike for-profit corporations, the purpose of the federal government is not to generate profit. But utilizing that basic concept to allow federal employees to share in a portion of cost savings generated through increased workforce productivity could also be a powerful incentive for employees to focus on ways to accomplish their work more efficiently and safely. Tapping into the creativity and innovation of employees has been demonstrated to result in amazing gains in efficiency and in major cost savings. Rewarding that innovation and creativity by sharing some of the cost savings generated should be investigated as a possible incentive that could be used to help retain a highly skilled and motivated workforce.