

STATEMENT OF  
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before the

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANGEMENT, THE  
FEDERAL WORKFORCE AND THE DISTRICT OF COLUMBIA  
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE

on

“DEPLOYED FEDERAL CIVILIANS: ADVANCING SECURITY AND  
OPPORTUNITY IN AFGHANISTAN”

April 14, 2010

Chairman Akaka, Ranking Member Voinovich, and Members of the Subcommittee:

Thank you for bringing attention to the vital role of our civilian employees who are deployed to Afghanistan, Iraq, and other areas of armed conflict, and for inviting me to discuss the work we've been doing at the Office of Personnel Management (OPM) to ensure that they are appropriately supported and compensated.

When Federal civilian employees are deployed to areas of armed conflict, they understand that they may face extraordinary challenges to their personal safety as well as to their ability to get the job done. Deployed civilian employees are essential to the Government's mission, and the pay and benefits they receive must reflect the vital services they provide. We at OPM are committed to recruiting, retaining, and honoring a world-class workforce to serve the American people. This commitment includes doing all we can to help ensure that deployed civilians receive fair and accurate compensation and benefits in a timely way.

Let me begin by briefly reviewing the principal pay and benefits provisions that apply to Federal civilian employees deployed to Afghanistan, Iraq, and similar areas of armed conflict. There are, of course, special authorities that apply specifically to Foreign Service employees or Defense Department employees, and the Departments of State and Defense are in a better position to discuss those. I will conclude by describing how OPM has been working with State, Defense, and other agencies to see where we need to do more for our deployed civilian employees.

Federal civilian employees deployed overseas, whether to areas of armed conflict or not, generally continue to serve under their normal pay system and receive pay and benefits that are granted to Federal employees generally, as entitlements, such as annual pay adjustments, overtime pay, annual and sick leave, and health and life insurance. Some of

these entitlements are enhanced for employees serving overseas. For example, the ceiling on the amount of annual leave that may be carried over to the next year is 360 hours for employees serving overseas, compared to 240 hours for those serving in the U.S. Also, deployment to Afghanistan or Iraq is considered “a life event” that allows employees an opportunity to elect different health insurance coverage or enhanced life insurance coverage.

Employees serving in areas of armed conflict may also be eligible for human resources flexibilities that are granted on an individual basis. These include recruitment, retention, and relocation incentives based on staffing needs for particular occupations or grade levels of work, special requirements of the mission, and unusually high or unique skills of individual employees. Quality step increases, performance awards, and cash awards are other examples of human resources flexibilities that can be used to reward good performance for those deployed, as they are for other employees.

Just as in the United States, employees working side-by-side overseas may serve under different pay systems, in addition to having somewhat different benefits. These differences are often based on different mission and workforce requirements and are the result of separate laws that have been authorized by Congress over many years. While the primary pay systems under title 5, United States Code, are the General Schedule, Federal Wage System, and Senior Executive Service, many employees overseas are covered by the Foreign Service, the intelligence agencies’ pay systems, or agency-specific authorities. For several years, various Defense Authorization Acts have provided temporary authority to allow agencies not otherwise covered by the Foreign Service Act to pay certain Foreign Service benefits to other Federal civilian employees serving in Iraq and Afghanistan. This has helped considerably to provide a more comprehensive and consistent approach to benefits for Federal civilians in areas of armed conflict.

In addition, all civilian employees working overseas receive a number of basic compensation entitlements, such as post differentials and danger pay, under the Department of State’s Standardized Regulations. The Standardized Regulations also provide for quarters allowances, cost-of-living allowances, payments during evacuations, and other related benefits, as applicable. Danger pay and post differential are both authorized by title 5 of the United States Code, and the law allows the Secretary of State to provide a common regulatory framework for all civilian employees overseas. In Iraq and Afghanistan, the hardship differential and danger pay are each equal to 35 percent of basic pay. Together, these two entitlements provide for well-deserved additional payments of 70 percent of basic pay to recognize the extraordinary commitment and service of deployed civilians under very dangerous and stressful conditions.

#### Authorities Administered by OPM

Let me take a moment to describe two temporary authorities OPM administers with respect to civilian employees in Iraq and Afghanistan. The Departments of Defense,

Labor, and State administer other special provisions, and those agencies are in the best position to describe the unique features of the programs they administer.

Under temporary law, OPM administers and provides guidance to agencies and employees for two special provisions. The first affects premium pay, which includes overtime pay, Sunday pay, holiday pay, and night differential. For employees deployed to Afghanistan and Iraq, the law permits a higher ceiling to be applied to the amount of premium pay they can earn. For these deployed civilians, the premium pay ceiling is the Vice President's salary (\$230,700 in 2010), rather than the lower rate applicable to employees generally (the higher of level V of the Executive Schedule (\$145,700 in 2010) or the applicable GS-15, step 10, rate).

The second special provision OPM administers is the higher limit on aggregate compensation, which is a ceiling on the total amount of compensation under title 5 of the United States Code that a civilian employee can be paid during a calendar year. For most employees, this limit is the rate for level I of the Executive Schedule (\$199,700 in 2010). This ceiling is removed for any employee who is granted a waiver of premium pay in Iraq and Afghanistan, but the authority for this waiver is temporary.

As we have said previously, OPM believes the temporary waivers of these caps on premium pay and aggregate compensation should be made permanent for employees deployed to areas of armed conflict. With permanent legislation, employees won't have to be concerned about whether a temporary authority will be renewed as the end of the year approaches, and agencies can plan on using these important tools. The legislative proposal we have developed with our partner agencies would waive these caps permanently for employees deployed to a designated zone of armed conflict.

### Our proposal

For some time, OPM has been looking at how we can do more for our civilian employees deployed to areas of armed conflict like Afghanistan and Iraq. In June 2008, OPM issued a memorandum to agency Chief Human Capital Officers describing the existing pay and benefits available to civilian employees working in areas of armed conflict and strongly urging Federal agencies to be aware of and make full use of these authorities.

OPM also has supported legislation to enhance the benefits of employees in areas of armed conflict. In September 2008, OPM wrote to the Senate and House Armed Services Committees regarding certain provisions of the National Defense Authorization Act for Fiscal Year 2009. OPM supported providing appropriate benefits to deployed employees and the extension of the temporary authorities I described a moment ago.

Most important, however, is our collaborative work over the last year with the Departments of State and Defense, as well as other agencies, to develop a legislative proposal to provide better and more consistent pay and benefits for employees in areas of armed conflict. OPM has met many times with these other agencies to share information

on the compensation and benefits available to deployed civilian employees, identify problems and gaps, discuss possible solutions, and develop a comprehensive Governmentwide approach. I am very pleased to be able to tell you that we are poised to send that proposal to Congress very shortly. While I am not yet in a position to describe all of the details of this proposal, I am very proud of the exhaustive work of OPM staff and our partners in this endeavor, and I am confident that the bill we expect to send to you in the coming days will be a great step forward in closing gaps and ensuring greater consistency in the compensation and support we provide the employees who serve so unselfishly in areas of armed conflict.

The proposal we expect to send to Congress would allow the Secretary of State, in coordination with the Secretary of Defense, to designate an area where there are exceptional levels of armed violence as a “designated zone of armed conflict”. This designation would serve as the basis for certain pay and benefits allowable for Federal civilian employees working in a designated zone of armed conflict.

The draft proposal would establish a central authority, in a new subchapter of title 5 of the United States Code, for the various benefits agencies could provide to their civilian employees who serve in a designated zone of armed conflict. Many of these authorities currently exist in legislative provisions that are not found in one location and, in some cases, must be renewed each year. By placing the authorities in one central set of statutory provisions within title 5 of the United States Code, agencies and employees will easily be able to locate the benefits that are available. Moreover, by authorizing Governmentwide regulations for these benefits, we can achieve greater uniformity in the benefits available to employees of different agencies who serve together in zones of armed conflict.

The draft bill we have developed would authorize the head of an agency to grant an employee on duty in a designated zone of armed conflict certain allowances, benefits and gratuities that are comparable to those provided by the Secretary of State to members of the Foreign Service under the Foreign Service Act. Agency heads have this authority currently, under a temporary provision in the Duncan Hunter National Defense Authorization Act for FY 2009. Our proposal would make this authority permanent.

In addition, our proposal would require agencies to pay a locality payment to eligible employees serving in a designated zone of armed conflict. An eligible employee would be entitled to at least the locality pay percentage for General Schedule employees in Washington, DC. If the employee’s official worksite were in an area for which a locality pay percentage higher than that for Washington, DC, was in effect, he or she would receive the higher locality pay percentage. We believe extending locality pay to these deployed civilians will go a long way toward placing their compensation on a more equitable footing.

The draft legislation we will be sending to Congress would amend other parts of title 5 to enhance current benefits. For example, the draft proposal would establish special travel and leave benefits for deployed civilian employees. This includes a proposal for

recuperation leave and related travel to provide employees a respite from working in a designated zone of armed conflict, and readjustment leave after a deployment assignment has been completed to provide employees time to rest and attend to personal matters before returning to work.

The legislative proposal would establish certain benefits related to an employee's medical care or in the case of death while in a designated zone of armed conflict. These include required pre- and post-deployment health assessments programs for employees in a designated zone of armed conflict, a gratuity for an eligible employee who sustains a qualifying traumatic injury in a designated zone of armed conflict, and continuation of pay, as authorized by the Federal Employees' Compensation Act, for up to 135 days under the Department of Labor's injury compensation program, in the event of traumatic or occupational injury in the performance of duty in a designated zone of armed conflict.

In closing, I want to again assure you that this effort remains one of OPM's top priorities, because we believe it is vital to do all that we can to ensure that civilian employees who put their lives on the line for the American people are appropriately rewarded and supported by the Federal Government as their employer.

Thank you again for the opportunity to discuss this important issue with you. I would be happy to respond to any questions you may have.