

STATEMENT OF

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BEFORE THE

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

ON

THE NATIONAL SECURITY PERSONNEL SYSTEM AND
PERFORMANCE MANAGEMENT IN THE FEDERAL GOVERNMENT

JUNE 9, 2010

Mr. Chairman, Senator Voinovich, and distinguished members of the Subcommittee:

Thank you for the opportunity to speak with you about implementing the repeal of the National Security Personnel System (NSPS) and acting on the personnel authorities provided to DoD in Public Law 111-84 (the National Defense Authorization Act for Fiscal Year 2010 (NDAA 2010)).

Transitioning approximately 226,000 employees from NSPS to the appropriate statutory non-NSPS pay and personnel system is a very high priority for the Department, and I'll talk about that first.

NSPS Repeal

NDAA 2010 repealed the statutory authority for NSPS and directed the Secretary of Defense to take necessary actions to provide, beginning no later than 6 months after the date of enactment, for the orderly termination of NSPS and transition of all NSPS employees and positions from NSPS by not later than January 1, 2012. The law requires that no employee will suffer a loss of or decrease in pay upon transition from NSPS due to its termination.

The last organizations and functional units converted to NSPS in February 2009. Approximately 226,000 DoD employees were covered by NSPS before we began the drawdown – a larger workforce than any Executive Agency has, with the exceptions of the Department of Veterans' Affairs and the U.S. Postal Service.

DoD established the NSPS Transition Office to provide overall management and direction of NSPS transition activities to be carried out by the DoD Components comprised of the Military Departments, Combatant Commands, Office of the Secretary of Defense, Defense Agencies, and DoD Field Activities. The Transition Office works closely with leadership DoD-

wide in planning, developing policies, preparing training and other tools, and guiding the orderly termination of NSPS with minimal impact to the DoD mission.

The Department's goal is to complete the transition of the vast majority of the NSPS population during Fiscal Year 2010. The rules of the gaining pay and personnel system will be followed in determining placements of NSPS employees into appropriate non-NSPS pay and personnel systems. Indicators of readiness for transition include that NSPS positions are classified following the rules of the gaining system and that a viable performance management system is in place.

Approximately 75 percent of NSPS employees and positions will transition to the GS classification and pay system during Fiscal Year 2010. In that NSPS employees have made up about 40 percent of our white collar workforce, this approach lets us bring together most organizations' employees under the same system this year. The remaining 25 percent of NSPS employees is scheduled to transition to other pay and personnel systems between spring 2011 and January 1, 2012. Five groups are affected. First, NDAA 2010, section 1105(c) requires seven organizations that had been under NSPS to establish laboratory personnel demonstration projects and transition their NSPS employees to those systems. Another group is employees in organizations returning to the Acquisition Workforce Personnel Demonstration Project. A third group is employees in technology organizations that will return to the Navy's alternative personnel system, not having been included in section 1105(c). The fourth group is physicians and dentists and prospectively other health care provider occupations (for example, nurses and physical therapists) who can be paid under existing title 38 United States Code pay authorities. DoD is also exploring developing a modified pay system under title 38 United States Code authorities. DoD previously deferred from exploring this authority in light of NSPS pay

flexibilities. The fifth group is employees in organizations affected by Base Realignment and Closure, who will remain in NSPS until closure or individual placement.

Since the majority (approximately 75 percent) of NSPS employees will transition to the GS system, I would like to address the measures we are taking to reclassify positions from the NSPS broad pay band system to the GS grade system; safeguards to ensure due diligence in the transition process and to buffer employees as they move from NSPS pay bands to the GS grade system; and the Department's initiatives to train employees, supervisors, and managers on the transition process.

Reclassification of NSPS Positions into the GS System

NSPS is fundamentally different from the GS system. The NSPS classification structure allows for progression from the entry/developmental level to journey and expert levels of work similar to a GS career ladder. It recognizes ranges of difficulty in various organizational and work situations; and provides a pay structure that offers employees advancement opportunities within their broad band based on performance or contributions to mission and on the acquisition of important competencies, skills, and knowledge. While classification of an NSPS position is based on the primary duties and responsibilities of the position, level of difficulty, occupational qualifications, and competency requirements, pay bands are wide and encompass a broad range of duties and responsibilities found in several grades of the GS system.

Under the GS classification system codified in title 5 of the United States Code, duties and responsibilities are tightly defined in discrete grades based on the level of difficulty and responsibility and the level of qualification requirements of covered positions. Because the two systems are so different, transitioning employees from the NSPS pay bands to GS grades

requires a significant level of effort and classification of positions using distinctly defined criteria.

From a technical perspective, NSPS employees' placement in the GS system is determined by application of the Office of Personnel Management (OPM) GS classification standards and guides to the employee's permanent NSPS duties and responsibilities at the time of transition. The employee's position is assigned a GS title, series, and grade based on that determination. Our transition process starts with confirmation by management that the employees' job descriptions are appropriate for the work that is assigned. Many NSPS employees are in jobs that already have a GS pedigree, with descriptions from before conversion or that cross-reference the GS classification. If the employee's duties and responsibilities have changed significantly under pay banding without triggering a change in description, management is asked to address that with a new position description for transition. Alternatively, since each NSPS pay band encompasses a range of GS grades, employees within an NSPS pay band on the same broad description may be performing work equivalent to different GS grade levels, and upon transition from NSPS will be assigned to different position descriptions at different GS grades.

For employees in positions that are in NSPS developmental pay bands or that management otherwise set up on a developmental track, GS career ladders will be established. NSPS employees in these positions will be transitioned to the appropriate GS grade in the ladder depending on the duties they are performing, and they will have eligibility for noncompetitive promotion to the full performance GS grade identified when they transition from NSPS.

Due Diligence for Transition Classification

I believe that the Department is exercising due diligence to ensure job descriptions and GS job classifications for the transition are appropriate and in compliance with OPM classification standards, rules, and guidance. Each Service and Defense Agency put in place a process to ensure that position descriptions are accurate and completely identify the duties and responsibilities of the position.

Army, for example, tracked GS classification equivalency for most of its jobs while NSPS was in effect. They developed an automated tool (NSPS2GS), capitalizing on their on-line position description library (FASCLASS) and its integration with the Defense Civilian Personnel Data System (DCPDS). Supervisors could review all their subordinates' descriptions and GS classifications in FASCLASS. Descriptions that did not have a GS equivalency were displayed in the tool; and managers reviewed, annotated, and sent them to the servicing civilian personnel organization for prompt classification determination and documentation by a team of classification specialists seasoned in the GS classification system. NSPS2GS also contains a transition report for organizations that reflects the employees' GS grades and that is available to managers to review prior to transition and raise areas of concern with the servicing Civilian Human Resources Agency (CHRA) office.

Navy, beginning after the decision to repeal NSPS in NDAA 2010, began an aggressive effort to ensure that position descriptions were current and accurate, consistent with the GS classification standards. Organizations executed a full review of position descriptions, identifying those that were newly established under NSPS as well as those previously under GS with significant changes. Those position descriptions that required changes were revised. Additionally, during the review, anomalies or outliers were reviewed to ensure an accurate hierarchy. Recognizing the importance of the role and involvement of leadership, Navy

guidance stipulated that commanding officers certify that the position descriptions for their organizations were accurate and complete.

Air Force sent out classification guidance along with classification policy memoranda to commanders and the personnel community. The memoranda directed a full review of NSPS position descriptions to identify which were previously classified under the GS system and whose duties had not significantly changed. If no such position description was available, organizations were then mandated to use standardized position descriptions from the Air Force position description library, if available and appropriate. If still no position description was available, organizations were required to submit a new GS position description, which was classified by experienced classifiers using OPM classification standards and organizational structure charts to ensure the integrity of classification decisions.

Many of the Defense Agencies require supervisors to review and actively certify the accuracy of each position description for employees assigned to their organization. The supporting human resources (HR) specialists reviewed every NSPS position description and prepared a new, equivalent description under the GS system; and managers were required to certify accuracy or work with HR to revise position descriptions and resolve any discrepancies or issues.

In all of the Components, if after transition a supervisor sees that a job description does not accurately reflect the duties and responsibilities of the position, the supporting human resources staff advises that he or she can submit a new position description for classification and appropriate action. If an employee feels there is a discrepancy, information is available to the employee regarding the classification complaint and appeal process.

With roughly 170,000 NSPS employees rejoining 320,000 GS employees whose jobs were not under NSPS, we are mindful that government-wide GS pay and personnel system rules and standards must be applied equitably. Our transition reclassification effort is massive; however, managers are exercising accountability for their subordinates' assignments and transition position descriptions, and the HR staff is carrying out their classification and advisory roles with a high degree of professionalism. Due process mechanisms are in place to correct omissions and errors that supervisors or employees raise about individual situations.

Safeguards to Protect Employees' Pay in the Transition Process

The salary range of each of the 15 GS grades is divided into 10 steps, and in most instances movement between steps is based on employees meeting statutory waiting periods and performing at an acceptable level as defined in the applicable performance management system. Under GS rules, an employee's base salary must match one of the steps of the employee's GS grade unless the employee is on pay retention, which will be discussed later. Therefore, upon transition to the GS system, employees will be placed on GS steps at the same or closest higher rate to the NSPS salary. Some will transition from salaries that are between steps. In this case, pay will be set on the higher step, and the employee will receive a pay increase. If an employee's salary is less than step 1 of the GS grade, pay will be set on step 1, and the employee will receive a pay increase. Of the 53,057 employees that have been transitioned through the pay period that began on May 23, 2010, approximately 71 percent received a pay increase, with the average salary "bump" of \$1,363 per year; and 8 percent remained at their same rate of pay because their salary matched a step within their new GS grade.

What about the other 21 percent? Some NSPS employees earn salaries that exceed the maximum rate for their position's GS grade. Section 1113(c)(1) of NDAA 2010 mandates that no employee suffer a loss of or decrease in pay upon transition from NSPS. Pay retention is a statutory entitlement under the GS system, and OPM implementing regulations provide DoD the essential tool needed to comply with the NDAA 2010 requirement. When the employee's NSPS adjusted salary exceeds step 10 of his or her GS grade, the employee must be placed on pay retention. In addition, the NDAA language gives added protection to transitioning NSPS employees whose salaries may be higher than what a GS employee can earn. Such employees will be authorized to retain a rate that at the time of transition to GS exceeds 150 percent of step 10 of the assigned grade. Some employees may retain a pay rate above Level IV of the Executive Schedule (EX-IV) (not to exceed 5 percent above EX-IV since this is the maximum rate for certain NSPS pay bands). Employees on temporary and term appointments retain their NSPS pay rates.

Pay retention is a valuable safeguard for NSPS transitions as well as for many other situations like reductions in force due to base realignments and closures. The governing statute and regulations insulate employees from a pay reduction and provide a mechanism to gradually bring the employees' pay into alignment with GS pay rates for their grade by means of smaller raises than the annual GS adjustment. Employees on pay retention are being paid at a higher rate than is applicable to the duties of the position they hold. For that reason, the pay retention law and regulation are designed to normalize their salaries over time by aligning their pay with the grade of the duties performed. When the rate range for a retained pay employee's position of record is adjusted, as it generally is in January for example, by law the employee on pay retention receives 50 percent of the increase in the maximum (step 10) rate of the highest

applicable rate range for the locality (i.e., combined base and locality pay or a special rate for the occupation) for the employee's position. In other words, pay retention protects the employee's current pay and limits pay increases. Each time a GS annual adjustment occurs, the employee's pay comes closer to being appropriate for the grade level of the work he or she performs. In gradual increments, the pay schedule is catching up to the employee's salary and, eventually, the salary can be set at step 10 of the GS pay rate. When that occurs, pay retention ends, and the employee will begin to receive the full government pay increase (GPI).

I would like to illustrate how pay retention works with an example. This is only one hypothetical. Every employee's situation will be different. Let's say that an NSPS pay band YA-2 employee in Dayton, Ohio, with a base and locality salary of \$97,725 transitions out of NSPS in 2010 as a GS-12. Because her \$97,725 salary exceeds Dayton's GS-12 step 10 rate of \$91,080, the employee is placed on retained pay, and her retained rate is \$6,645 higher per year than a GS-12 step 10. As the years pass, the employee continues to benefit from pay above step 10 of her grade, receiving 50 percent of the GPI each year until the rate for GS-12 step 10 is equal to or exceeds the employee's retained pay. At that point, pay would be set on an established step, and the entitlement to pay retention ends.

Building on the example above, let me substitute the historical pattern for Dayton, whose GS locality rates are near the average for DoD. Over the past five years, Dayton averaged annual increases of nearly 2.75 percent. If that were the increase from 2011 on, it would bring the 2011 GS-12 step 10 rate to \$93,581. The retained pay rate is increased by one-half of the increase to the GS-12 step 10 rate, bringing the retained pay rate to \$98,976, or \$5,395 per year more than the step 10 rate. The gap would continue to decrease based on the historical 2.75 percentage average annual GPI. In this case, it would take 5 years until 2016 for the GS-12

step 10 salary to catch up to the retained rate. In those 5 years, the employee on pay retention would have received approximately \$15,400 additional in salary. In addition, his or her retained rate is fully credited toward computing the retirement "high three" and other benefits, including Federal Employees' Group Life Insurance and Thrift Savings Plan. This statutory safeguard is designed to protect both the employee and the GS system by equalizing pay at a gradual rate.

In addition to the safeguards I've just discussed, OPM has been very responsive to our requests for relief for our employees in some other matters. For example, OPM authorized us to waive time-in-grade limitations for employees who are performing at a higher grade level under their NSPS pay band than they otherwise would be able to transition out at. OPM also responded favorably to our request for an exception to the time limits for temporary and term appointments, since the NSPS regulations provide for time-limited appointments that exceed time limits under the GS system.

The DoD Components and Transition Office are monitoring the effects on employees as a result of transition from NSPS. As of May 23, 2010, as I mentioned, 71 percent received pay increases, 8 percent transitioned at a GS step that matched their pay, and 21 percent were placed on pay retention because their salary exceeded step 10 of their assigned GS grade. The latter group is concentrated at the GS-12 and above levels, where many NSPS employees were advantaged by pay rate ranges that exceeded the rates for GS equivalent jobs. Recognizing the potential salary implications to the employee, Components are taking steps to mitigate the impact of pay retention. For example, Navy developed an information and education campaign to increase the awareness and understanding of the meaning of pay retention. Fact sheets were issued and disseminated across the Department; town halls and online presentation/chat/video sessions have been devoted to pay retention guidelines in order to address questions and

concerns. Additionally, those employees eligible for pay retention were provided letters outlining pay retention guidelines. Promotion opportunities are shared with the workforce and employees have been encouraged to explore and pursue higher-graded positions. The issue of pay retention also is addressed in the master communications package provided for commands and organizations to share guidance with leadership and the workforce.

Educating Employees, Supervisors, and Management Officials on the Transition Process

The NSPS Transition Office guides and oversees transition planning and execution. As the Director, I am responsible to develop, coordinate, and disseminate supporting procedures, policies, and tools; and to develop training products and services for the Components to educate employees, supervisors, and management officials on all aspects of NSPS transition. My staff, in consultation with the Components, has produced web-enabled training for supervisors on the GS classification system. They have prepared web-based training for supervisors and employees on performance management fundamentals to help sustain attention to good practices. They have issued transition guides available to the entire workforce and the human resources community so there can be common understanding of the transition, and of transition provisions for classification, pay setting, and staffing. My office has redesigned the NSPS website to publicize up-to-date information on the transition, including toolkits that contain a variety of products such as the transition guides, fact sheets, brochures, articles, frequently asked questions (FAQs), and the training modules on the GS system and performance management basics. The website and communications are updated regularly as new information becomes available and new products are developed.

DoD Components all have robust communications campaigns in preparation for transition from NSPS to GS. They use internal, workforce websites as a repository for transition-related information, e-mail boxes for employees to submit questions/concerns, news bulletins, articles on transition in agency publications, their own tailored FAQs, and links to the Transition Office website. They employ town hall meetings for the workforce, commanders' calls with their leadership teams, leadership and workforce briefings, and video teleconferences. I have personally accepted invitations to speak on NSPS transition at several workforce functions around the country over the past three months. Some organizations are providing individual counseling to employees with concerns. All are working with management to ensure employees are informed by local officials of their position classification under the non-NSPS personnel system prior to their transition, and all report that employees are being told about available training and encouraged to ask questions of their supervisors and local human resources office. The workforce is being encouraged to refresh their knowledge about the GS system through the available training; and in some agencies, those who have not worked under the system are required to take the training.

As you may know, the Department did not convert bargaining unit employees into NSPS. However, some employees under NSPS exercised their rights and organized into bargaining units represented by labor organizations. As a result, 27 bargaining units were formed covering 913 NSPS bargaining unit employees.

Our transition requirements and the law required organizations to give appropriate advance notice and an opportunity to bargain to those unions representing NSPS bargaining unit employees. In some cases, unions simply requested some information on transition issues and did not seek negotiations. In other cases, requests to bargain were received and management is

honoring its collective bargaining obligations. As of this date, half of the bargaining unit employees have transitioned from NSPS.

PROGRESS ON THE NEW PERFORMANCE MANAGEMENT SYSTEM AND HIRING PROCESS

Fulfilling the NDAA's provisions for developing and implementing a new, DoD-wide performance management system and hiring process requires full engagement between management, the workforce, unions, and others with vested interest, like OPM. The process for engagement is crucial to the outcomes, and I have concentrated on establishing mechanisms to bring ideas and issues to the forefront from all major parties. I have hired key staff and assembled detailees from the Components to research and assemble information on current/past private and public initiatives on performance management and hiring improvements. I have established a Senior Advisory Group with DoD Components to surface management views and mission needs. I regularly meet with the overarching team responsible for Department-wide policy direction on NSPS transition, many of whom also have policy responsibility related to successor systems and processes. I have met with OPM Director Berry to ensure DoD is in alignment with government-wide civil service reform. DoD and OPM will be working closely together on the DoD personnel authorities provided for in section 1113 of NDAA 2010.

The Department is fully committed to meeting its obligations to ensure labor organization involvement in the design and implementation of our new personnel authorities. We have a strong desire to build an effective relationship and fully participative process with labor organizations in developing these new authorities.

The Department has held two preliminary meetings with labor organizations to discuss a way forward on designing a new performance management system and hiring process. These

discussions have been quite productive in establishing a shared understanding of how labor will be involved in the design and implementation. One significant result of these meetings is our work with labor in designing a conference where management and labor attendees will come together and begin a series of open and structured discussions to gather different views regarding options for the new authorities. We believe all employees will benefit from management and labor working together in a collaborative and open manner on these initiatives.

I envision diverse teams comprised of supervisors, managers, employees, unions, OPM, and other interested parties to design the new DoD performance management system and hiring process. It is my intent that the design process be transparent and that employees and other interested parties be kept informed about the development and deployment of the new programs. I also expect that training will be developed concurrently with the design of the new authorities and made available to all.

The Department will report to Congress on its plans for the DoD-wide performance management system and re-described hiring procedures in the fall, as mandated by NDAA 2010. We will also continue to work with OPM on government-wide civil service reform.

CLOSING

The Department is committed to open, ongoing communications about NSPS transition and development of the DoD-unique performance management and hiring authorities provided in NDAA 2010.

Thank you for your ongoing support of our DoD civilian workforce, and for providing me this opportunity to share with you our experiences as we implement the repeal of NSPS and undertake to design the NDAA 2010 personnel authorities. I welcome your questions.