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DEPARTMENT OF DEFENSE

before the

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT,
THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

UNITED STATES SENATE

on

LABOR-MANAGEMENT FORUMS IN THE FEDERAL GOVERNMENT

October 11, 2011

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

Thank you for inviting the Department of Defense (DoD) to appear at this hearing today to discuss the Department's efforts to implement Executive Order 13522 as a means of facilitating our labor partners' participation in the design of a new performance management system, and development of suggestions to improve the Federal hiring process, as provided by the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2010. I believe this partnership is the largest practical example of pre-decisional involvement across the Executive Agencies since the Executive Order was signed. I am

pleased to share with you DoD's progress, the challenges and rewards, and the way ahead toward full implementation of the Executive Order.

LABOR-MANAGEMENT FORUMS IN DOD

Executive Order 13522 states, and DoD firmly embraces, that Federal employees and their union representatives are an essential source of ideas and information that are valuable inputs to the management process. In April 2010, Deputy Secretary of Defense Lynn emphasized in a memorandum to DoD's leaders the Department's commitment to cultivating and promoting cooperative and productive labor-management relations. He outlined three guiding principles to guide labor management actions:

1. DoD's civilian employees provide critical support to the ongoing war effort and the larger mission of the Department;
2. Collective bargaining rights are important to ensuring a healthy and engaged civilian workforce;
3. Working with labor representatives in a collaborative manner is key to improving the operations of the Department of Defense.

In May 2010, the Under Secretary of Defense for Personnel and Readiness, Dr. Clifford Stanley, further endorsed support for the Executive Order, directing activities in the Military Departments and Defense Agencies to immediately move forward with the establishment of labor-management forums, particularly at the level of exclusive recognition, such as the forums at the Defense Logistics Agency with the American

Federation of Government Employees (AFGE) and the South Dakota National Guard with the Laborers' International Union of North America (LIUNA).

The Department has embraced the guidance and is making significant progress that is benefitting all parties. DoD has approximately 450,000 bargaining unit employees and 1,500 bargaining units. As I am sure you can appreciate, implementing any program, especially in an organization as complex as DoD, where the goal is agreement of the parties on all of the procedural aspects of the program, is a daunting task. As DoD follows the Executive Order's mandate to establish labor-management forums, councils, and committees at various organizational levels, we are experiencing measurable success. We have labor-management groups that meet on a regular basis at the DoD level, the Component level, and most notably, at the local installation level, where the impact of these types of discussions is greatest. To date, over 450 forums have been established in DoD. This number represents about 60 percent of all forums established in the Federal government.

With the continued growth in the number of forums, we hope to replicate some of the mission-related improvements we have already seen as a result of successful labor-management engagements, to include the "Moonshine Project" at the Pearl Harbor Naval Shipyard. The "Moonshine Project" is a Production Efficiency Program that generates innovative and inexpensive ideas from workers, who meet with production managers to evaluate ideas for immediate process improvement. For example, one idea from this

process resulted in a \$600,000 savings, eliminating a requirement to dry dock a submarine. The project was an example of a labor-management success story presented by Mr. Ben Toyama of the Metal Trades Council, at the National Council on Federal Labor-Management Relations meeting chaired by Office of Personnel Management (OPM) Director John Berry, and Office of Management and Budget (OMB) Deputy Director Jeffrey Zients.

NEW BEGINNINGS

Next, I would like to discuss “New Beginnings,” which is the way we refer to DoD’s efforts to involve labor representatives in the design of a new performance management system and hiring process provided for in the NDAA for FY 2010. New Beginnings has been an evolving process and included labor and management planning sessions, conferences, and design team working meetings that culminated in recommendations developed by labor and management employees for DoD leadership consideration. I am particularly delighted with the progress made here by labor and management employees alike, and that this unique example of pre-decisional involvement has worked well.

NDAA for FY 2010 and Executive Order Requirements

The NDAA for FY 2010 repealed the statutory authority for the National Security Personnel System (NSPS) and provided DoD the authority, in coordination with OPM, to develop a new DoD performance management system, redesign procedures used within

DoD to make appointments to positions in the competitive service, and establish a DoD Civilian Workforce Incentive Fund. The NDAA further provided that the implementing regulations were to be agency regulations subject to National Consultation and collective bargaining under chapter 71 of title 5, United States Code.

Development of the NDAA personnel authorities is different from management-driven projects. Congress required DoD to ensure a means for employee involvement (for bargaining unit employees, through their exclusive representatives) in the design and implementation of the authorities. DoD has been consistently and intensively engaged with the unions that represent DoD bargaining unit employees over the past 18 months, consistent with Executive Order 13522 and Congressional requirements, to develop the process to design the new authorities. We have established a clear track record of working, on a nearly daily basis, with labor and management representatives in implementing the requirements of the NDAA.

Pre-Design Conference Planning

The Deputy Secretary of Defense established the DoD NSPS Transition Office (NSPSTO) and appointed its Director in January 2010, under the auspices of the Under Secretary of Defense for Personnel and Readiness. The Director's responsibility was to provide overall management and direction to (1) the transition of some 226,000 employees from NSPS to the appropriate successor pay and personnel system by not later

than the statutory deadline of January 1, 2012¹; and (2) the design and development of the personnel authorities for performance management, workforce incentives, and hiring flexibilities identified in section 1113(d) of the NDAA for FY 2010.

In March 2010, the NSPSTO Director proposed a conference to be held in April 2010 to bring together a diverse group, including employees, managers, supervisors, labor representatives, OPM, and other key stakeholders, to participate in the design and development of the new DoD personnel authorities. The unions expressed their desire to be included in the planning for a conference of this nature. In the interest of building an effective relationship between management and labor, the conference planning timeline was adjusted to accommodate discussions between labor and management with respect to a pre-design conference to help identify broad concepts for the NDAA personnel authorities. As a result, representatives from the NSPSTO, DoD Components², unions, OPM, and Federal Managers' Association (FMA) worked together closely to plan a pre-design conference. The result of months of extensive conference planning and design was "New Beginnings: Exploring Ideas, Information, and Insights in Partnership for a Working Defense." The New Beginnings pre-design conference was scheduled for September 2010.

¹ DoD has established November 20, 2011, as the last date for transitions from NSPS to occur in order to resolve any remaining transition-related issues before the statutory deadline.

² DoD Components are the Military Departments, Combatant Commands, and DoD Fourth Estate Entities. The DoD Fourth Estate consists of the Office of the Secretary of Defense, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities in DoD that are not in the Military Departments or the Combatant Commands.

Pre-Design Conference: New Beginnings I

DoD hosted the first New Beginnings conference from September 20-23, 2010, in Los Angeles, California. The conference brought together 185 individuals representing diverse stakeholder groups (e.g., representatives of 11 unions that represent DoD employees, managers, FMA, OPM, and the U.S. Merit Systems Protection Board (MSPB)) to explore information, insights, and ideas on, among other things, civilian performance management and recognition; experiences in hiring and applying for positions in DoD; and incentives for attracting, retaining, and rewarding employees. Ground rules established for the session included that DoD was not looking for consensus, but for the free flow of ideas; and everyone had a voice in the conversation.

The main topics of discussion at the conference were performance management and hiring and job application experiences within DoD. The topics were introduced jointly by a DoD management representative and a union representative. These presentations set the stage for a free flow of ideas and discussions among all participants. Because there are many different performance management systems in DoD, participants were given the opportunity to learn from each other about some of the different approaches to performance management that have been used in the Department. Participants were asked to be curious about the differences and note the similarities in approach. The goal of this exercise was to gain perspectives and generate ideas that could later (after the conference) be considered for the design of the new system.

The New Beginnings conference generated over 800 recommendations in the area of performance management and over 600 insights into the hiring and application process in DoD. The NSPSTO compiled a comprehensive report on the conference and sent it to all participants in October 2010. The report includes the conference agenda, materials, and all recommendations received from participants during the conference; and was posted to the New Beginnings website home page for public viewing. Discussions continued during the fall and winter of 2010 between DoD management and labor on the way forward for the design of the new authorities.

Planning Off-Site: Next Steps

Building upon the success of the September 2010 New Beginnings conference, a joint labor-management working group met to plan the next steps. At a two-day off-site in December 2010, the working group agreed to three design teams of 20-24 employees equally represented by labor and management, and that the identification of team participants would begin in January 2011, with start-up of the design teams projected for late February 2011. In mid-February, the working group completed planning for the design effort and continued their involvement as the Design Steering Group (DSG) to provide support to the design teams. The United Defense Workers' Coalition (UDWC)³ selected the labor representatives, and DoD officials selected the management participants on the DSG. Management participants consisted of NSPSTO personnel, a

³ In 2005, 36 of the national unions that represent DoD employees formed the UDWC. Mr. Byron Charlton, AFL-CIO, Director of Government Relations, chairs the UDWC and is our contact point for working with and coordinating our design efforts for the new authorities.

participant identified by FMA, a participant identified by OPM, and the transition program manager from each DoD Component.

The three design teams – Performance Management, Hiring Flexibilities, and Civilian Workforce Incentive Fund – would be comprised of union and non-union employees from across DoD. Representatives were chosen from a broad array of occupational series, grade levels, and geographic locations spanning DoD. OPM was included on the teams as advisors and consultants.

Design Teams: New Beginnings II

The New Beginnings II conference was held on February 23-25, 2011, in Arlington, Virginia, to launch the design team effort. The NSPSTO Director and UDWC Chairman welcomed conference participants.

The conference was a continuation of the work achieved during the New Beginnings I conference held in Los Angeles the previous September. Approximately 100 individuals equally represented by labor and management attended New Beginnings II, which was designed around four key objectives: (1) demonstrate leadership's commitment and support of this important initiative; (2) build a common database regarding timelines, requirements, and expectations during the conference; (3) equip team participants with tools and skills to effectively participate; and (4) foster support for the collaborative relationship and process that are critical to the success of the effort. The

conference featured a variety of learning activities, workshops, and speakers. Within the teams, everyone had an equal voice and was encouraged to actively participate. The conference set the stage for the important work to follow and equipped design team participants with tools and skills for interacting effectively.

New Beginnings Design Team Efforts

Following adjournment of the New Beginnings II conference, the participants reconvened, as the three design teams, after a weekend break, in Arlington, Virginia. The three teams started their work in earnest, with each team establishing ground rules and developing an individual plan of action and milestones (POA&M) to help guide their work. The teams met in Arlington about three weeks out of every four from the end of February through September 2011 to deliberate on the issues.

Due to the varied backgrounds, experience, and degrees of knowledge of the design team members, it was necessary for the teams to spend several months doing extensive research into the authorities, policies, and processes that currently exist. This effort was to help establish a common knowledge base among participants as they moved forward toward starting to explore design possibilities. The teams also heard from guest speakers from across DoD, OPM, and MSPB, who met with them to share research, trends, and practices to help inform the teams' understanding and knowledge of their respective areas. They engaged in much discussion within their own team and across the

teams. In July 2011, they began developing their recommendations for the design of the new authorities.

In early August 2011, the teams briefed the first draft of their recommendations to the DSG as well as to DoD and OPM senior executives. They answered questions and received written feedback from individuals on the DSG and from the DoD Components and OPM in mid-August. The teams used the results of these meetings and this feedback to inform them on their continuing work and to update their recommendations when they re-convened in late August.

Updated recommendations and topical papers were briefed to the DSG and to DoD and OPM executives in early September 2011, with feedback provided by the individuals on the DSG and from the DoD components to the teams in mid-September. In late September, the labor and management co-leads briefed the Service Assistant Secretaries for Manpower and Reserve Affairs and the Office of the Secretary of Defense Director of Administration and Management on their updated recommendations. The teams concluded their deliberations and completed their final recommendations for delivery to the Under Secretary of Defense for Personnel and Readiness. They identified statutory, legislative, or internal DoD barriers to their design recommendations and wrote a comprehensive report on their work. The teams' final recommendations will inform the Department's senior leadership on its decisions for a new DoD performance management

system, redesigned appointment procedures, and whether to establish a Civilian Workforce Incentive Fund.

New Beginnings Challenges and Rewards

New Beginnings has been both challenging and rewarding. We have found that relationship building is key. A good relationship, based on mutual trust, respect, and honesty must be in place for an effective relationship to occur. When we began this effort, the state of the union/management relationship – primarily as a result of NSPS – was severely strained, with significant discord and mistrust on both sides. While the passage of the NDAA for FY 2010 and the President’s Executive Order calling for pre-decisional involvement paved the way for a more inclusive process, we first had to strengthen the relationship.

The first meeting between the NSPSTO and labor at the end of March 2010, confirmed the nature of the relationship. The DoD leadership took away from that meeting three clear messages from labor. First, there was a lack of trust on their part. Second, from their perspective, the Department had no genuine interest in listening to and giving consideration to labor’s issues, positions, and input. Third, that our actions on the NDAA authorities at that time (planning for the April 2010 conference) did not reflect significant progress in resolving the issue of trust.

From that first meeting, DoD leaders determined that restoring and rebuilding the relationship was the top priority. DoD clearly understood the pre-decisional involvement process is dependent on the relationship that exists between the involved parties. Based on that and the clear messages we received from labor, we were determined to restore and rebuild the relationship on three basic tenets: (1) earn trust, (2) show respect, and (3) maintain basic honesty. All of our actions and engagement with labor have been and continue to be guided and measured by those tenets.

Another challenge was that the approximately 75 members of the three design teams faced a steep learning curve. Extensive time and attention were given to ensuring design team members were provided thorough background briefs on the law's requirements and to provide time for thorough research and analysis activities. The schedule also took into consideration the need for team members to periodically return to their home bases, not only to check in with their families and co-workers, but also to keep their leadership updated on design team activities and obtain additional feedback and information regarding design options.

The AFGE withdrawal from participation in March and their eventual re-entry in July was also challenging. In crafting recommendations for the design of the new authorities, our goal has always been to ensure broad-based participation; and their departure left a significant void. When AFGE made the decision to return to the design teams, the teams adjusted their schedules to give AFGE returning members an

opportunity to catch up and reintegrate with their teams. AFGE's return and participation on the design teams ensured their perspective was fully considered. We welcomed their return and their input.

Even with its challenges, the New Beginnings process has been worthwhile. The NDAA and the President's Executive Order paved the way for a more inclusive approach to developing a new performance management system and redesigned appointment procedures. The process itself creates an environment for the free flow of ideas and ensures a diversity of perspectives is considered. Working together in resolving the Department's human capital issues promotes shared interest, investment, and ownership, all so critical to a successful outcome. The trust and respect gained from this endeavor will have a positive carryover effect as we go forward.

FULLY IMPLEMENTING EXECUTIVE ORDER 13522 IN DOD

Prior to the Executive Order, the Department engaged with our 10 unions with national consultation rights with DoD to reestablish relationships. Under Dr. Stanley's guidance, we started very informal meetings with union representatives to discuss how to change the tenor of the relationship. The initial meetings focused primarily on relationship-building. As the relationship matured, the group began to focus on human resources issues and programs, with pre-decisional discussions on issues such as the Department's Training Instruction, suicide prevention training for supervisors, and expanded implementation of the electronic leave and earnings statement. These meetings

also set the stage for the establishment of Component-level labor-management meetings with the national unions and pre-decisional discussions.

As the Department-level group evolved into what we now call the “DoD Roundtable,” it provided us the vehicle for discussions regarding the Department’s Executive Order Implementation Plan and union pre-decisional involvement in the NDAA design effort. Because of the conflict surrounding the processes used in the past, we found that it was in our mutual best interest to collaborate on how we would engage in the pre-decisional process.

In addition to our work establishing forums and pre-decisional involvement efforts, the Department volunteered to be part of the Executive Order’s permissive bargaining pilot initiative. Initially the Department submitted two permissive bargaining pilot sites: (1) Marine Corps Maintenance Center, Albany, Georgia covering, 1,200 AFGE bargaining unit employees; and (2) Camp Pendleton, California, with over 900 National Federation of Federal Employee (NFFE) bargaining unit employees. Within the last few months, the Marine Corps reached agreement with AFGE to expand the pilot project to include an additional 1,200 AFGE bargaining unit employees at the Marine Corps Logistics Command in Barstow, California. The Department’s permissive bargaining pilots cover 3,300 employees.

We are already starting to see results from the pilots. Earlier this year, agreement was reached on a reorganization effort that consolidated two Logistics Command Maintenance Centers into a single Maintenance Command. While the reorganization is in its infancy, the consolidation is expected to create cost efficiencies and enhance organizational effectiveness. This effort was completed through pre-decisional discussions with the unions, without the need for the time and resource intensive formal collective bargaining process. As new collective bargaining relationships mature, we hope to see more mission-focused results that we can share with the rest of the Federal government.

There is ample evidence that the quality and value of the dialog between the Department and our labor unions have improved markedly. The evolution of these relationships, however, is ongoing and will be for some time. As I stated earlier, the unique quality of the relationship between management and labor at the level of exclusive recognition puts ownership of success of forums and pre-decisional involvement in the hands of those who do the hard work at the installation level. DoD is committed to putting the necessary resources and tools in the hands of our leaders, our employees, and their exclusive representatives to achieve the goals and objectives of the Executive Order.

Experience and practice show that where forums exist, employees feel engaged and provide meaningful input affecting the delivery of products and services. The enduring legacy of those labor-management relationships at the installation level serves

as the true foundation for success under the Executive Order. While our baseline assessment revealed that much hard work on the relationship dimension remains in front of us, that assessment also confirms that where employees are engaged in those decisions that affect them, the support of those decisions is greater when compared to those relationships where engagement does not occur.

POSSIBLE AREAS FOR IMPROVEMENT

While the Department has embraced the Executive Order and made strides in its implementation, we note areas for improvement needed to meet our commitment, including: (1) establishing more forums; (2) documenting improvements in productivity and effectiveness (metrics); and (3) managing pre-decisional involvement costs.

Forum Establishment

As I mentioned previously, the Department has over 450 forums established. While significant, we need to do more to maximize the mission-related benefits that are inherent with productive, collaborative labor-management forums. We need to work with our national unions to educate our respective representatives on why it is in their best interest to establish cooperative labor-management forums and provide the tools and information they need for success.

The Office of General Counsel of the Federal Labor Relations Authority (FLRA), together with the Federal Mediation and Conciliation Service (FMCS), provide training

to labor and management on the critical aspects of the Federal Sector Labor-Management Relations Statute, as well as training on implementing and sustaining labor-management forums under the Executive Order. Likewise, human resources organizations throughout DoD provide training on core labor-management topics, including the Executive Order, as part of our overall managerial and supervisory training initiative. Training is critical to the success of forum implementation and puts the right tools in the hands of forum participants.

Documentation of Productivity and Effectiveness Improvements (Metrics)

As we move forward under the Executive Order, one of our chief challenges will be to further develop the concept of a shared mission throughout the Department and firmly establish the attitudinal and behavioral models that serve as a foundation for success. I believe there is experience in the Department that may provide positive models that can be replicated and provide for dynamic improvements in both productivity and effectiveness that are necessary for the forum experience to yield the type of results envisioned by the Executive Order. Results-oriented forums, focused on a shared vision by labor and management, will improve our productivity and effectiveness.

We will know if our efforts are successful by measuring the movement towards achieving the Department's objectives. To this end, the National Council on Federal Labor-Management Relations developed three broad metrics that include: (1) mission and service delivery; (2) employee satisfaction and engagement; and (3) labor-

management relationship. Utilizing these three overarching metrics, each installation-level forum will select measurable criteria that best fit their respective slice of products and services. As the forums reach agreement on their metrics, conflicting priorities will be reduced, allowing the forums to align their resources and efforts in a meaningful and measurable way. For example, in the metric concerning mission and service delivery, depots and refit facility forums may select a criterion that focuses on the processes that lead to a reduction in the cycle time to refit or refurbish weapon systems, or return airframes to airworthiness standards and return these systems to the field. By avoiding a one-size-fits-all approach, those at the installation level can shape what they need to measure and report those successes. Where it makes sense, others may replicate those successful models and achieve even higher levels of productivity and effectiveness. This approach creates a dynamic process within the Department where we measure the performance of the enterprise, replicate success where we find it, and implement where it makes sense. Based on this strategic approach, the Department is in a better position to invest its time, resources, intelligence, energy, and opportunities affecting attainment of its goals and objectives.

Managing Pre-Decisional Involvement Costs

There are resource implications for engaging in this collaborative behavior in terms of required investments in training, sustaining the skill sets of those participating in the process, and the investment needed to fully explore the recommendations of employees and labor organizations. It also requires that the right people are in the right

place at the right time to move forward on meaningful discussions. While some costs are predictable, leaders must manage these costs efficiently and effectively with no degradation of mission capability or capacity. However, my view is, in relative terms, the cost concerns pale in comparison to the potential benefits of effective engagement between labor and management.

THE WAY AHEAD

As the Department moves forward, we plan to continue our collaborative efforts. The Executive Order requires each agency to conduct a baseline assessment of the state of labor relations. The preliminary results of the assessment we developed with our unions indicate that when joint labor-management forums or committees exist and meet regularly, union representatives and supervisors rate almost all aspects of the relationship as significantly more positive and report a more results-oriented labor relations climate.

In early September 2011, “DoD Roundtable” representatives met and agreed to take more of a leadership role in forum establishment throughout the Department by becoming the first group to take advantage of the FMCS Executive Order Train-the-Trainer Program. In FY 2012, we will be embarking on a training program for labor and management employees delivered by labor and management employees. As we train, we will continue to build knowledge and trust, thus adding value to DoD’s decision-making process.