



STATEMENT OF

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BEFORE

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MANAGEMENT, THE FEDERAL WORKFORCE, AND
THE DISTRICT OF COLUMBIA

U.S. SENATE COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS

REGARDING

LABOR-MANAGEMENT FORUMS IN THE
FEDERAL GOVERNMENT

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Introduction

On behalf of the National Federation of Federal Employees (NFFE) and the 110,000 federal employees we represent throughout the United States and abroad, at 40 different federal agencies and departments throughout the federal government; I thank you for the opportunity to provide testimony today regarding labor-management partnerships in the federal government.

Summary

On December 14, 2009 President Obama signed Executive Order (EO) 13522 which reinstituted labor-management partnerships, or “forums,” in the federal government. Labor-management partnerships were in place during the Clinton Administration, but President George W. Bush eliminated most federal agency partnerships during his tenure. The reestablishment of labor-management partnerships under President Obama has been a breath of fresh air in a majority of federal agencies where labor-management forums are established and underway.

Currently there are at least 769 individual labor-management forums that have been established in federal agencies and department, covering approximately 770,000 bargaining unit employees. In these agencies, partnerships are being used to find innovative solutions to agency problems, to identify ways to trim budgets without undermining the core missions of agencies, to build buy-in from employees for various initiatives that impact the workers and local communities, and to avoid unnecessary costs that federal agencies frequently incur – like costs associated with litigation and grievances – that are easily avoided by communicating with employees through pre-

decisional involvement. In short, labor-management partnerships are being used to facilitate smarter, leaner, and more efficient government by including some of the most important stakeholders of all – the employees who actually carry out the missions of the agencies.

How Labor-Management Forums Improve Agency Performance

I can say from my 30-year career as federal employee that labor-management forums most certainly do improve agency performance. Regardless of what an agency's objective might be – i.e. cost savings, increased production capacity, faster processing, fewer errors, better workplace safety, etc. – it is often the employees who are the best source of information for how to improve processes to make the agency work better, and thereby improve performance. After all, employees are the ones who do the work every day.

Through labor-management forums, employees who actually perform the work have a real voice in offering options, alternatives, and ideas on how to better accomplish the work through changing processes and procedures. There is no more fertile ground for improved agency performance than listening to the ideas and concerns of workers. This is particularly true when employees, through their designated union representatives, are engaged early in the decision-making process. In my view, the inclusion of pre-decisional involvement in President Obama's EO was a key provision that leads to better decision making by agency leaders and better performance of federal agencies.

The pre-decisional involvement provision has substantially opened up the lines of communication between management and employees, and has done much to garner trust

and buy-in from workers. By listening to labor's ideas and concerns early in the process before all decisions are made, it helps management make better decisions about workplace changes which are better supported by the workforce. The support from employees in turn makes implementation of the management decision easier. This leads to less concern and distraction among employees and greater focus on the agency mission to be accomplished.

How Labor-Management Forums Save Money

I can also say from my three decades working in the U.S. Forest Service that labor-management forums save agencies money. By discussing problems early on, and allowing the union to share workers' concerns and possible solutions to problems, it allows management to make better decisions, thereby saving money in terms of time and effort involved in implementing decisions. Again, a major component of that increased efficiency is improved buy-in from workers, which results in quicker, smoother implementation.

Agency decisions resulting from or influenced by discussions held in labor-management forums can result in less need to bargain once a decision is made, resulting in significant potential cost savings. It is in the interest of both labor and management to avoid lengthy and costly grievances or litigation. Communication through labor-management forums allows the parties to reach an understanding about why agencies are taking certain actions and what it means for the employees. Communication through forums also allows for plans to be modified to mitigate some of the adverse impact on employees, when the alternative, failing to hear workers' concerns, could lead to far

greater problems associated with a workforce that is uninformed or unsupportive of agency decisions.

One major reason that labor-management forums save agencies money is because partnership tends to involve fewer people for shorter lengths of time than collective bargaining. Partnerships forums tend to have a smaller number of union and management representatives as participants. In addition, meetings are conducted less frequently and at relatively low cost to agencies. On the other hand, collective bargaining negotiations can go on for extended periods of time and often involve large negotiating teams which cost agencies more. You've heard the saying, "An ounce of prevention is worth a pound of cure." The same concept applies to labor-management relations. Communication through labor-management forums is very effective at preventing costly, time-consuming labor-management deliberations. Labor-management forums are an efficient way to hear and address workers' concerns. For this reason, federal agencies should utilize them to the fullest.

Labor-management forums can achieve significant savings for federal agencies by fostering innovative thinking about solutions to problems, which can result in significant savings by streamlining work processes, designing new procedures for accomplishing work, and the like. Here is an example of an initiative that was the product of the labor-management forum at the U.S. Forest Service that saves the agency over \$15 million annually. In partnership, the U.S. Forest Service and NFFE collaborated on a firefighting workforce succession planning process. According to an audit conducted by the U.S. Department of Agriculture (USDA) Office of the Inspector General, the product of this labor-management collaboration will save the agency over \$15 million annually in

unnecessary training. This savings far exceeds (many times over) the amount the U.S. Forest Service spends annually on labor-management partnership forums. This is just one example of the kind of savings agencies can achieve through partnership with labor.

Importance of Pre-decisional Involvement

Pre-decisional involvement as defined in EO 13522 allows for discussion on *all* workplace matters (to the extent practicable) to be discussed by labor and management, regardless of whether a particular issue is negotiable under Title 5. This provides an opportunity for employees to have input on workplace issues which the union, as their exclusive representative, cannot bargain.

Pre-decisional involvement requires early communication and engagement of labor by management when changes to working conditions are being contemplated. By engaging early in the process, it provides real opportunity for workers to have their issues, concerns, and alternatives given fair consideration by management prior to making a decision.

Without pre-decisional involvement, labor is often engaged by management too late in the decision-making process. By the time draft proposals are developed and written by management and shared with the Union, there can be enough investment of resources (time, money, emotion, ownership, etc.) that input by labor becomes essentially meaningless with regard to substantive changes. That approach leads to lots of unnecessary tension with employees.

Pre-decisional involvement helps to build a relationship of trust between labor and management. If employees genuinely feel that they have been afforded an early

opportunity to present their views and concerns over workplace issues before management makes a decision, it is much more likely they will support, and help to implement, that decision. When implementation of management decisions becomes easy, it saves agencies, and taxpayers, money.

Communication problems (i.e. lack of communication, miscommunication, or poor timing of communication) are a primary cause of complaints and grievances against management. Pre-decisional involvement seeks to ensure that problems related to communication are minimized, thereby potentially reducing the number of grievances and other third party interventions and appeals.

Pre-decisional involvement tends to result in cost savings if concerns, issues, and alternatives raised by labor are considered and addressed as part of the decision-making process by management. In many instances, there is less need for negotiations on implementing management's decision, and when negotiations *are* needed, they are usually expedited, resulting in cost savings.

Labor-management Forums at NFFE Locals

NFFE is very supportive of the Administration's effort to promote labor-management forums in federal agencies; however, we have experienced somewhat mixed results in establishing forums at the various levels of recognition. While management and labor have successfully implemented forums across nearly all of the executive agencies and departments where our union represent federal employees, in many cases the pace of implementation has lagged. I believe some of the lag in the EO implementation can be attributed to a lack of clear direction coming down from agency

leadership to the local managers, resulting in some managers being uncomfortable in moving forward until they received sufficient direction from above. In a small number of cases, resistance from local managers to implement the EO has led to a protracted effort on the part of NFFE to establish labor-management forums. Agency heads should take a more active role in holding local managers accountable for implementation of the EO.

Several agencies and departments made decisions to continue with partnership councils or other similar forums which resulted from an EO signed by President Clinton (EO 12871), despite the Clinton EO being rescinded by President Bush. In these cases, the agency and the union saw value in being able to work together collaboratively to address issues and resolve problems, and thus made a conscious decision to continue their collaboration when not required to do so under Bush. These more mature and ongoing partnership councils tend to produce the most dramatic results with respect to cost savings and improved agency performance. In particular, partnership councils at the Department of Veterans Affairs (VA) and U.S. Forest Service have been very effective and have produced demonstrated cost savings and positive outcomes as a result of their work over the past several years.

Pre-decisional involvement of the union continues to be a change in philosophy we would like to see embraced more fully in many agencies. I believe there are two main reasons pre-decisional involvement has been inconsistent across federal agencies: First, there is a lack of understanding and agreement by labor and management on what pre-decisional involvement is and what it isn't, setting up differing expectations from the parties. Second, in some cases there is not a willingness on the part of management to engage the union early enough in the decision-making process.

In order to fully implement President Obama's EO, and for agencies to reap the full benefit of working in partnership with labor, pre-decisional involvement needs to be better embraced and carried out more consistently throughout federal agencies. Both labor and management need to get beyond the old way of thinking that a complete written draft proposal from management to the union is where communication about an agency decision begins. This old approach to pre-decisional involvement is wasteful and should be considered unacceptable. Pre-decisional involvement needs to be more about early engagement and communication, and less about waiting to engage and communicate until written proposals are written.

Bargaining on Permissive Subjects

While EO 13522 did not call for mandatory bargaining on all permissive subjects, the EO did call for pilot projects where agencies would elect to bargain over permissive, often referred to as "(b)(1)" issues. There is one (b)(1) pilot project being conducted where NFFE represents employees, and that (b)(1) pilot project is underway. This pilot is with the Department of Defense, at the U.S. Marine Corps Base Camp Pendleton where NFFE represent employees. The pilot covers approximately 920 bargaining unit employees represented by NFFE Local 919. The subject of the pilot is numbers and types of employees or positions assigned to any organizational subdivision, work project, or tour of duty. Grades of positions are excluded from bargaining under this pilot.

The pilot at Camp Pendleton will provide for bargaining on current and future reorganization projects. The pilot became operational in 2010, when a bargaining team of agency management and union representatives were identified. A charter for the pilot

has been written, metrics have been identified, and these have been submitted to the National Council on Federal Labor-Management Relations. The bargaining team and staff have received training on (b)(1) bargaining.

Bargaining permissive subjects is not entirely new to NFFE. Our union has a history of (b)(1) bargaining in USDA during major reorganizations which resulted in significant cost savings and more effective and high-performing organizations following bargaining.

New Beginnings at Department of Defense

The establishment of labor-management forums in the federal government has been instrumental in bringing about a cooperative approach to addressing agency objectives. I can think of no better example of how that new-found cooperation has played out more successfully than at the Department of Defense (DoD), in the New Beginnings effort.

The National Defense Authorization Act of 2010 tasked DoD with engaging Defense employees through their unions and working with them to develop a new performance management system, hiring system, and system for administering workforce incentives at the Department. I am proud to say that DoD answered the call in spades with the New Beginnings effort.

The Department reached out to the employees through their unions and put together a genuine plan for labor and management at DoD to work together to develop the three critical new systems for the Department. By engaging labor organizations at the beginning of the process, labor became a full partner and took shared responsibility with

management in designing these systems. The result has been an historic labor-management collaboration where dozens of DoD employees, representing both labor and management, have put their lives and careers on hold to answer the call and participate on design teams tasked with taking a deep dive into each of the three subject areas.

Design team members committed to an extremely difficult schedule of two weeks at a time in Arlington working on the design teams, followed by one week at home, for approximately six months. It was a huge sacrifice for each and every one of the participants, but it was essential to getting all the perspectives necessary to get the final work product done right.

They adopted such a rigorous schedule so that DoD could be expeditious in developing the new systems. The design team process has now been completed, and, at the time this written testimony was finalized, recommendations from the design teams are being vetted by DoD leadership. We are also on schedule to meet the timelines Congress has asked for in developing these systems. Meeting that timeline is no small feat, but all parties are committed to it, and we continue to move through the process on schedule.

While the recommendations from the design teams are not yet final, I believe there will be broad support of labor for the recommendations coming out of all of the workgroups. Labor and management have had ongoing communications and briefings on the workings and status of the workgroups, and have been afforded numerous opportunities to provide feedback. Labor and DoD management have been afforded the same opportunity to provide feedback throughout the process. Most importantly, that feedback has been given the genuine consideration from the various design teams.

When this process is complete, I believe that labor will be able to support the systems that are developed. While we may not be able to agree with every individual decision, because the process was inclusive and fair, the outcomes will likely be supported. I am confident that new systems put in place as a result of this process will lay the foundation for decades of success at DoD. The employees had a real voice in the process, and as a result, DoD will have more buy-in from the workforce than ever could have imagined. DoD took the right approach, and the Department will now reap the benefits of that.

Without question, one of the biggest keys to the success of the New Beginnings effort was the trust that was built between labor and management in the process. This trust was spurred by an early commitment from DoD to genuinely engage employee representatives, and to depart from the approach employed for years under the National Security Personnel System (NSPS) to marginalize employees and their unions. That trust continued to build as the Department followed through on promises of transparency and inclusiveness. Today, that trust is strong, and DoD has a real partner in labor to address issues within the Department going forward. I hope other federal agencies will learn from this experience that collaborating with labor can help bring about positive change in federal agencies. If a Department as big and diverse as DoD can do it, so can any federal agency.

Training on Implementing

The Federal Labor Relations Authority (FLRA) and Federal Mediation and Conciliation Service (FMCS) have partnered to produce and put on several face-to-face

training sessions across the country for management and labor representatives. The focus of initial training sessions has been on implementing the EO and establishing labor-management forums. This training has been highly effective in ensuring that labor and management have the basic knowledge and the tools necessary to get labor-management forums up and running at all appropriate levels of recognition.

NFFE union officials have participated in many of these training sessions and have been enthusiastic in their support of the training. Feedback has been very positive, and our members are hungry for additional training to help them maintain effective forums and ensure that the forums are resulting in a more productive workplace.

FLRA training for agency and labor representatives engaged in (b)(1) bargaining pilots has also taken place. This training has been highly effective in getting the parties to understand what (b)(1) is and isn't, and has provided essential tools for successful bargaining.

FLRA has partnered with the VA to produce web-based training on the EO and labor-management forum implementation. They have just released web-based interactive training on (b)(1) bargaining.

FLRA needs to be acknowledged for their proactive approach to training labor and management on implementing and maintaining effective forums. The combination of face-to-face and web-based training has increased the audience who can take advantage of the training which will lead to more effective and productive labor-management forums throughout government.

Closing

I thank the Subcommittee for holding this hearing and for allowing me to provide testimony today.