

TESTIMONY**TESTIMONY OF MAX STIER****PRESIDENT AND CHIEF EXECUTIVE OFFICER OF THE
PARTNERSHIP FOR PUBLIC SERVICE**

**before the
Subcommittee on International Security, Proliferation and Federal Service
Committee on Governmental Affairs
United States Senate**

**on
“The Federal Workforce: Legislative Proposals for Change”
S. 1603, The Federal Human Capital Act of 2001
S. 1612, The Managerial Flexibility Act**

Chairman Akaka, members of the Subcommittee, thank you for inviting me to testify here today. I appreciate the opportunity to discuss the challenges facing the federal workforce today and to offer the Partnership’s perspectives on the Federal Human Capital Act and the Managerial Flexibilities Act.

The Partnership was founded just less than one year ago in response to the very issues that this Committee is examining today. Skills gaps created during the downsizing of the 90’s are soon to be exacerbated by a wave of retirements. At the same time, very few talented Americans see federal jobs as good jobs. All of the government activities that are so vital to us – from protecting our country to regulating our markets -- will soon be severely threatened unless we improve the government’s management of its most important asset – its people.

I would like to use my time here today to focus on the importance of the Chief Human Capital Officer position that is created by the Federal Human Capital Act. The Partnership has worked closely with congressional staff in developing this proposal and we believe it is vitally important not only for the success of the measures you are considering today but also for the success of subsequent civil service reforms that this Committee may be asked to consider in the coming years.

Simply put, the Chief Human Capital Officer proposal is the logical continuation of a long process, begun under the first President Bush, to require agencies to manage for results. In 1990, Congress passed the Chief Financial Officers Act in order to improve the financial management of the federal government. The act required each federal agency to designate a person to serve as its Chief Financial Officer and to oversee all of the agency’s financial management activities.

Although much remains to be done, the CFO Act has led to substantial improvements. Today, government operates with financial standards, financial auditing and reporting of these measures.

Six years later, Congress enacted similar provisions with respect to agency information practices, including the requirement that all agencies designate a Chief Information Officer. The Government Performance Results Act has also required agencies to track and report on the results they are able to achieve. These reforms, taken together, have put in place most of the structures that are needed to manage a high-performing organization. But there is one notable exception: human capital management.

The top corporations in this country uniformly acknowledge the importance of

having a human capital officer in a position of top responsibility – a position that is equal to other vice-presidents responsible for the organization’s performance and success. Each of the top ten corporations on the Fortune 100 list has such a position. Jack Welch, the former CEO of General Electric, emphasized the importance of human capital management. He said” “We spend all our time on people. The day we screw up the people thing, this company is over.”

Government agencies that spend time on “the people thing” have realized results. GSA, for example, which has a human resources position similar to that envisioned by this Act, has consistently scored high on employee satisfaction surveys – one of the keys to successful retention of needed talent.

Just over one year ago, GAO Comptroller David Walker testified before this same subcommittee that the government’s human capital management had emerged as “the missing link” in the federal government’s performance management framework. Also in March of last year, the GAO designated human capital management as a government-wide high-risk area. Now, one year later, this bill proposes institutional reforms to close that link and fully incorporate human capital into each agency’s strategic planning process.

Both the Federal Human Capital Act and the Managerial Flexibilities Act propose to grant agencies broad new flexibilities and authorities in the hope of improving the government’s ability to recruit and retain the talent and skills that it desperately needs. I would urge the members of this Committee to think of the Chief Human Capital Officer as an indispensable agent of change, acting under the direction of the political leadership within each agency, who will be equipped with the authority and the expertise to ensure that these new authorities are deployed efficiently, strategically and to maximum effect.

The Chief Human Capital Officer is also the necessary precondition to the more comprehensive civil service reform proposals that are taking shape. We are proud to be working with the reconstituted Volcker Commission to help chart the path to an improved federal workforce. Important issues like reform of the pay and classification systems will have to be addressed and, hopefully, change will be implemented. These reforms are much more likely to have unintended and disruptive consequences if the strategic human capital planning capability within the government is not improved.

OPM has a vitally important role to play in carrying out the government’s human capital objectives, but it cannot manage recruitment and retention from afar. OMB’s management scorecard is an important step that has sharpened the focus on results in the human capital arena, but measurement alone cannot produce strategic implementation from agencies that are not equipped for the job. This is hard work that requires sustained effort focused through strategic planning. This is the role that the Chief Human Capital Officer will fill.

In order for the Chief Human Capital Officer to play this role, we believe that the current legislative proposal could be strengthened even further and we are eager to work with the Committee to accomplish this. Our suggestions focus on two areas. First, using competencies to select the right people for these positions; second, ensuring that these officers have a clear mandate to develop, use and report to Congress on meaningful measures of their agency’s human capital performance.

Using competencies to evaluate candidates is essential to the success of this proposal. This bill is not simply about putting a new label on positions currently held by HR directors across the government, but about transforming the very nature of the job. The Chief Human Capital officer will be responsible for ensuring that the human capital processes are aligned with agency-wide objectives in order to produce the desired result: better government performance for our citizens.

This bill contemplates that the Chief Human Capital Officer for each agency shall be chosen by the administration based on established competencies that will include leadership, expertise and, most importantly, the demonstrated ability to manage change. The bill currently proposes to have NAPA review the question of how best to implement competencies across the government, but the Partnership believes there is no need for further study. Competencies for these types of strategic HR positions have already been well-established by NAPA and others and can be successfully applied to the selection of qualified Chief Human Capital Officers within the government. We stand ready to work with this Committee to expedite the implementation of this Act.

We would also recommend that the bill be amended so that the position of chief human capital officer cannot be filled by a political appointee. Neither CFOs nor CIOs are required to be filled by political appointees and with good reason. They do not develop policy. They ensure that the agency's resources are managed intelligently to serve the policy goals outlined by the administration. We believe that the purposes of the position can best be fulfilled by hiring based on a strict set of competencies from both within and outside the government. We believe the position could be structured either as an SES position or as a special contract employee like those utilized by the IRS to manage its reorganization process. The IRS model involves strict performance criteria and a five-year contract term – we believe both concepts would work very well in this context. In addition, there should be a clear line of authority for this position that reports directly to the Deputy Secretary.

Once the right person for the job is selected, it is critical that they have the tools they need for effective management. In our view, the most critical management tool is information. High-performing organizations cannot succeed without meaningful measures of their progress that are applied consistently over time. If you can measure it, it can change. These measures, also known as metrics, are not being developed or applied to human capital management as part of an overall strategic plan to improve agency performance. This bill recognizes this shortcoming and proposes that the development and implementation of appropriate metrics be one of the primary responsibilities of the chief human capital officer.

We would further strengthen this provision. Specifically, we propose that Chief Human Capital Officer be required to develop specified groups of metrics that are aligned with the agency's strategic plan. The bill should mandate a presumption that metrics will be established to measure such things as time-to-hire, success of recruitment efforts or employee development. One size does not fit all, however, and we would recommend that officers be able to rebut the presumed importance of these proposed metric categories by demonstrating to OPM that they are not relevant to the agency's performance goals. We believe the vast majority of agencies will be compelled to concede that metrics in these areas are important, but we also believe that chief human capital officers should have the freedom to manage.

There are some additional features of this legislation that we would recommend be modified. Presently, the proposed Chief Human Capital Officer position can be filled by political appointees in some agencies (so-called "(b)(1)" agencies) and career employees in other agencies (so-called "(b)(2)" agencies). In addition to the issues we outlined above, there are several additional problems with allowing the Chief Human Capital Officer position to be filled by political appointees.

First, such a status would limit the power of the agency head to threaten removal if results are not achieved. Political appointees who are appointed by the President and confirmed by the Senate typically serve at the pleasure of the President. Second, if an existing Presidentially-appointed and Senate-confirmed officer is later designated as a Chief Human Capital Officer, there is substantial legal uncertainty about whether that would require a separate Senate approval of the candidate's fitness to take on a set of responsibilities that would be distinct from those for which he was confirmed. Congress

may consider such designations to be an end-run around their approval role. In light of these questions, it would be preferable to make it clear from the outset that the Chief Human Capital Officer is not a policy-making position that requires Senate approval.

The proposal also seems to require that Chief Human Capital Officers for smaller agencies be appointed from within the ranks of those “in the competitive service or the senior executive service” or to otherwise be “career appointees.” This seems to exclude the possibility of hiring from the outside, which we believe is crucial to the success of this proposal. In addition, the term “career appointees” is unclear. We would recommend that this language be modified to make it clear that the Chief Human Capital Officer position can be filled by someone from outside government, but that is a non-political position.

In order to encourage existing members of the Senior Executive Service to take on these responsibilities, we recommend that the bill provide that if a career person is designated as a CHCO and later loses that job, that they will retain their SES status.

We also recommend that the authority of the Chief Human Capital Officer be clarified. At the very least, the CHCO should report directly to the Deputy Secretary. The CHCO’s relationship to existing agency structures should also be clarified. We recommend that the legislation make it clear that the CHCO supplants existing agency HR directors and assumes their administrative authority as well as bearing the broader responsibilities outlined in this legislation.

The requirement that CHCOs “assess the current workforce characteristics and future needs based on the strategic plan and mission of the agency” should reference the similar agency mandate contained in the Government Performance Results Act (41 USC 4103) to make it clear that the CHCO’s responsibility does not preempt the agency’s overall responsibility under GPRA.

The CHCO also has been given broad access authority to agency papers and other materials that is analogous to powers given to agency inspectors general and creates potential problems with respect to confidential, proprietary and/or classified material within some agencies. We believe this authority is unnecessary since the CHCO will presumably be able to call on cooperation from others in the agency just as CFOs and CIOs do now. The authority is also misleading in that the CHCO is not intended to be an “inspector general” type position who is independent from agency management. To the contrary, the CHCO position is intended to be an integral part of senior agency management. For these reasons, we believe that these explicit powers of access to agency records are unnecessary and should be deleted.

The proposed bill provides that Chief Human Capital Officers will be compensated at level IV of the SES pay scale, which could be a drop in compensation for high ranking members of the Senior Executive Service. We recommend that the language be clarified to ensure that current employees will retain their current pay levels if they are designated as CHCOs. Moreover, we believe that agencies should have the discretion to offer higher starting salaries if justified by the candidate’s qualifications and expertise.

The Partnership has also heard concerns from some quarters that the authority of the Chief Human Capital Officers Council is unclear. We believe the appropriate model is the existing Chief Human Management Council. Like that body, the CHCO Council would play a coordinating role, but have no separate grant of authority to contravene the decisions of agency heads. A clarification to that effect would be welcome.

Separate and apart from the Chief Human Capital Officer proposal, there are many other provisions of both the Federal Human Capital Act of 2001 and the Managerial Flexibilities Act that would enhance the ability of the federal government to attract and retain a highly talented and motivated workforce and we support the

enactment of those provisions. For example:

- The authority for agencies to establish a category rating system for evaluating job applicants for positions in the competitive service is a practice that has proven to be an effective way of selecting qualified applicants. It gives managers better choices while preserving the important values of the merit system principles regarding fairness, diversity, and respect for veteran's preference.
- The proposed extension, revision, and expansion of authorities for use of voluntary separation incentive pay and voluntary early retirement that would allow agencies to ease out individuals in positions no longer critical to the mission of the agency or to otherwise correct skill imbalances without losing the ability to fill an essential position could provide a much needed workforce "shaping" tool.
- Adding flexibility to the authority to pay recruitment, relocation and retention bonuses to targeted employees needed to perform critical functions would be another welcomed addition to the tools available to federal agencies seeking to maintain the workforce the nation deserves and needs.
- While it may seem minor or unimportant to some, enhancing annual leave accrual for newly appointed but highly experienced employees could make the difference in an agency's ability to attract needed individuals into mid-career level positions. This is consistent with the recommendations in a recent Partnership paper on mid-career hiring in the federal government. Further, we would suggest this authority be available when filling positions at GS-12 or above.
- Allowing for the possibility of additional alternative personnel systems through an expansion of the demonstration project authority is another worthy idea if used judiciously. One size does not fit all in today's complex government with regard to specific HR practices and programs.

As useful as many of these provisions would be, however, we would add a few words of caution. While there is clearly a need for additional flexibility—and variability—in federal human capital policies, programs, and practices, not every new proposal will be effective or desirable even if well intentioned. So, for example, the worthwhile goal of allow agencies to hire more quickly would seem to be served by allowing them to appoint candidates to certain positions without further competition on the basis of undergraduate or graduate degree grade point average. However, research on this issue is fairly consistent in finding that grade point average, per se, is typically not a good predictor of job success—especially when applied to a broad range of jobs and without regard to the field of academic study. So, for example, denying some applicants consideration for employment because their grade point average was 3.4 rather than 3.5 may not meet the criteria of "fair and open competition" that Congress placed into law in the 1978 Civil Service Reform Act.

In like manner, the concept of allowing agencies to appoint individuals into the competitive service without competition in certain circumstances is not flawed on its face and, in fact, is an option that has been available for decades when there has been a "severe shortage of qualified candidates." However, should the trigger for this authority be expanded to include criteria as broad as "a need for expedited hiring," then hiring without competition could become the exception that swallows the rule at least in some agencies.

Fortunately, it is quite possible to allow flexibility in human capital practices in a very beneficial manner. We simply need to ensure that whatever alternatives are developed are consistent with the values inherent in the statutory merit system principles and are based on reliable data and sound research.

The workforce challenges that the federal government faces are substantial, but they also create enormous opportunities to enhance the effectiveness of government and

the prestige of the federal civil service. The two legislative proposals you are considering today would help to do both and we would be honored to help in any way we can.

Thank you again for the opportunity to testify and I look forward to answering any questions you may have.

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