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ENHANCING EMPLOYEE PERFORMANCE: A HEARING ON PENDING LEGISLATION

HEARING

BEFORE THE

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

OF THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

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THURSDAY, JUNE 29, 2006

U.S. SENATE,
OVERSIGHT OF GOVERNMENT MANAGEMENT,
THE FEDERAL WORKFORCE AND THE
DISTRICT OF COLUMBIA SUBCOMMITTEE,
OF THE COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 9:36 a.m., in room SD–342, Dirksen Senate Office Building, Hon. George V. Voinovich, Chairman of the Subcommittee, presiding.

Present: Senators Voinovich, Akaka, and Lautenberg.

OPENING STATEMENT OF CHAIRMAN VOINOVICH

Senator VOINOVICH. Good morning. Today's hearing, "Enhancing Employee Performance," will come to order.

The purpose of today's hearing is to examine two bills within the Subcommittee's jurisdiction, the Federal Workforce Performance Appraisal and Management Improvement Act, which I introduced on June 13, and the Federal Supervisor Training Act, introduced by Senator Akaka on Tuesday. Today's hearing initiates the public discussion on these two bills.

I welcome the legislation that you introduced, Senator Akaka.

Senator AKAKA. Thank you.

Senator VOINOVICH. Hopefully, the two of us will be able to work on it and get something done together.

Senator AKAKA. I enjoy working with you and look forward to addressing these issues together.

Senator VOINOVICH. Thanks. I am pleased that today's witnesses include individuals who have testified before this Subcommittee on many occasions. Dan Blair said this is OPM week here in this Committee. I welcome you back. During my time in the Senate, I have worked closely with all of you to enact numerous reforms, including the Federal Workforce Flexibility Act of 2004, and I am confident we can continue that tradition.

As I said, today's hearing is the beginning of the process to consider these two bills. I look forward to listening to the views of all interested parties—the Administration, employee organizations, unions, the agencies that have had to implement these proposals, and those in the non-profit, good government sector.

I understand there will be comments, recommendations, and concerns about the content of these bills. I welcome those comments.

I believe engaging in this constructive dialogue will enable us to find a way to make continued improvements to the environment in which our dedicated Federal employees work.

As the Comptroller General stated during this Subcommittee's hearing on Tuesday, overall throughout the government, performance management systems are, and this is his words, "abysmal." Abysmal. I do not believe it is fair to the hard-working Federal employees of this country to subject them to such poor systems.

The purpose of my legislation is to improve the performance appraisal process. The legislation Senator Akaka and I have introduced would help accomplish this goal by requiring that Federal employees annually receive a written performance appraisal. Current law only requires periodic appraisals of job performance.

This legislation would require that an individual performance appraisal be aligned with the agency's strategic goals and be developed with the employee. The performance appraisal systems would make meaningful distinctions among employee performance, which means no more pass-fail systems. None of these requirements currently exist in the statute. The legislation, then, would require agencies to use this information in making personnel decisions.

I believe the sections of the bill that may generate concern among some unions are those that would prevent an employee from receiving an annual pay adjustment or within-grade increase if that employee has not earned a successful performance appraisal. I support pay-for-performance. I know this section of the bill would go a long way towards addressing a concern identified in the 2004 Federal Human Capital Survey that employees do not believe differences in performance are recognized in a meaningful way. In that survey, only 29 percent of the employees believed differences were recognized.

However, before an agency would even reach the point where an under-performing employee would be denied a pay increase, the agency would have to work with the Office of Personnel Management to develop and refine its performance appraisal system. Employees would then have one year under the performance appraisal system to understand how it would be used to make pay decisions.

The bottom line is, we are not going to let any agency implement pay-for-performance unless we know they are prepared to do it. Pay decisions would not be arbitrary or capricious. Managers would be required to receive appropriate training to judge the performance of their subordinates, make expectations clear to employees, and give constructive feedback. This would not happen overnight, but this training is essential to improve overall government performance.

Furthermore, I would like to note that many people were concerned, including some here today, that when Congress authorized new personnel systems for the Departments of Homeland Security and Defense, that these new systems would quickly be implemented with minimal planning. I was committed to making sure that these systems were implemented well, and not simply fast. In fact, I went over to the Pentagon in March 2004 and met with Paul Wolfowitz and Secretary of the Navy Gordon England and urged them to slow down the implementation of the National Security Personnel System. They did so.

Senator Akaka and I held a hearing this past April on NSPS. DOD had just begun implementation for the first 11,000 employees. Again, I went to the Pentagon in March 2004, and they are starting to implement it this year; 2 years later. I believe, at least I think Senator Akaka and I were impressed, that they were doing it in a thoughtful, careful manner. The point is, it can be done well within the Federal Government.

The robust performance appraisal system, as required in my bill, would not be arbitrary and capricious. I believe most employees want to know that their supervisor is paying attention. They want to know where they stand and how they are doing on their jobs. Employees need to discuss, with their managers, their strengths and weaknesses and receive feedback so they can improve their skills and grow professionally.

Finally, the bill would authorize pay-for-performance for individuals hired as senior level or senior technical experts, consistent with the statute for the Senior Executive Service.

I now yield to my good friend Senator Akaka for his opening statement. Senator Akaka.

OPENING STATEMENT OF SENATOR AKAKA

Senator AKAKA. Thank you very much, Mr. Chairman, for holding this very important hearing today on our respective bills. You and I know that strong employee performance translates into improved agency performance, which is why the measures we have introduced deserve attention. We both want to make the Federal Government an employer of choice, and I commend you, Mr. Chairman, for your continuance and strong leadership, of this effort.

Nothing is more important to the success of Federal programs than how the Federal Government hires, fires, compensates, and evaluates its employees. To be effective, government programs and services depend on well-trained employees and skilled managers. And yet, because supervisor training is left to the discretion of the individual agencies, this training is often inconsistent and its availability is many times plagued by inadequate agency resources. Meaningful training matters and it should not be a discretionary option for agencies.

Federal workers deal with a broad and complex range of issues affecting our Nation and the world. They understand that well-trained managers empower them, which in turn improves programs and saves taxpayers money. Training also strengthens communications skills, ensures that employees have a clear understanding of their roles and responsibilities, and promotes stronger manager-employee relationships.

That is why I introduced the Federal Supervisor Training Act. My bill will bridge this training gap that exists now and help ensure that Federal managers have the necessary skills to manage and meet agency missions.

The legislation has three major training components. First, the bill will require that new supervisors receive training in their initial 12 months on the job, with mandatory retraining every 3 years on how to work with employees to develop performance expectations and evaluate employees. Current managers will have 3 years to obtain their initial training.

Second, the bill requires mentoring for new supervisors and training on how to mentor employees.

Third, the measure requires training on the laws governing, and the procedures for enforcing, whistleblower and anti-discrimination rights.

Agencies will also be required to set standards that supervisors should meet in order to: Manage employees effectively, assess a manager's ability to meet these standards, and provide training to improve areas identified in personnel assessments.

I also believe this training will address the perceived shortfalls in the General Schedule, or GS. I know there are those who believe that the government should throw out the GS because, in their view, agency employee performance has not improved. I, on the other hand, believe that the lack of manager training is a primary reason the GS has not lived up to expectations. The GS was designed to be a performance-based compensation system that is both transparent and credible.

Mr. Chairman, I am grateful for the support my bill has received from the Government Managers Coalition; AFGE; NTEU; IFPTE; the AFL–CIO; Metal Trades Department, as well as the Partnership for Public Service. And, I want to thank you again, Mr. Chairman, for holding today's hearing and your efforts in these areas. I also want to thank our witnesses for being here today. Thank you.

Senator VOINOVICH. Thank you, Senator Akaka. Senator Lautenberg.

OPENING STATEMENT OF SENATOR LAUTENBERG

Senator LAUTENBERG. Thank you, Mr. Chairman. I admire your interest in trying to make government more efficient and I know that you come from an environment where employees were a critical part of your functioning in your previous positions in government.

I have been honored to serve in the Senate for 21 years. Before that, I worked in the private sector. I helped start a company that was listed as one of the six best companies in America, included with companies like General Electric and Chevron. I and two brothers founded that company. So I speak from some experience.

When I look and see what happens here, I, too, would like to see efficiency and productivity, and I believe that government employees are among the most dedicated staff that I have seen, and that includes all of my business experience. When I came to the Senate and left ADP, we had 16,000 employees. It is dwarfed now because they have 44,000, but our work was primarily in the personnel area. So in many ways, this zealous commitment creates a loyalty rarely found.

Seeing each group from a personal experience tells me that as a result, exceptional performances are often given by government employees who have little more than the security of their job that attracts them to it, because if it is competition for higher wages, they can do a heck of a lot better outside the government. While there may, and there always are, malingerers and people who are lazy, the question of letting political influence creep into the decisionmaking, I think, is a high risk.

Now, when we talk about the unions and collective bargaining, things have happened. In the wake of the terrorist attack on September 11, 2001, Congress told the Department of Homeland Security and Department of Defense to overhaul their pay and workplace rules, to get rid of the General Schedule band system that has been in place since 1949.

Mr. Chairman, I believe that there is a role for collective bargaining. I am a strong believer in organized labor. I learned of my father's experience when he was growing up and how employment was in the days before unions. The people who rushed to their death in the World Trade Center, trying to save lives of people that they never met, were members of a union.

But in the aftermath of September 11, 2001, the Bush Administration saw an opportunity to close down organized labor, got new workplace rules it wanted for DHS and the Department of Defense, and so far, those rules haven't worked out as planned. Courts have ruled that they go too far in stripping the rights of workers. In fact, the latest such ruling was handed down Tuesday of this week by the Federal Court of Appeals in the District of Columbia, and it is clear that this approach was not the right way to go.

If the Administration really wants to make government more efficient, more accountable, I urge them to sit down with public workers and find ways to accomplish that goal. Given the importance of the mission of DHS, we need to attract the best and the brightest. Taking away employees' rights and protections isn't going to attract the kind of workers that we need to keep America safe.

Mr. Chairman, as we look around this room and our offices, I have never seen a more dedicated, committed group of people working. I think the same is true of departments throughout government. So while I salute the effort to make the system work better, I do also recommend that we keep in mind that the security factor is a huge factor in people working in government, knowing that it is a reliable place to work and that if they do their job, they will move along, that there are some extra conveniences.

Thanks very much, Mr. Chairman. I appreciate it.

Senator VOINOVICH. Thank you, Senator Lautenberg. Congratulations, by the way, on your company. That is wonderful. That should make you feel good. It is like your child is growing up and it is doing great.

Senator LAUTENBERG. Yes, just the poor boys, the three of us. My father died from an occupational exposure when he was 43 years of age and he was a health faddist, and his brother died similarly at a very young age. So I have strong worker orientation. When I see that our company is listed with GE and the others, it is a mind-blowing experience. I have been lucky.

Senator VOINOVICH. That is great.

Our first witness today is Dan Blair. Linda Springer is out in the field. I spent a lot of time with her this week, and she is visiting all OPM offices. When OPM did their annual employee survey, employees said they felt that the management was disconnected from the employees. So Linda is out there spending time with folks and letting them know that she cares about them and wants to hear what they think needs to be done to help them do a better job.

So, Mr. Blair, we are very glad to have you here, and if you will stand, I will administer the oath. Do you swear the testimony you are about to give this Subcommittee is the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. BLAIR. Yes, I do.

Senator VOINOVICH. Mr. Blair, you may begin.

TESTIMONY OF THE HON. DAN G. BLAIR,[1] DEPUTY DIRECTOR, OFFICE OF PERSONNEL MANAGEMENT

Mr. BLAIR. Mr. Chairman, Senator Akaka, and Senator Lautenberg, thank you for inviting the Office of Personnel Management (OPM) to testify about the proposed Federal Workforce Performance Appraisal and Management Improvement Act, S. 3492, and the proposed Federal Supervisor Training Act, S. 3594. I am pleased to testify here on behalf of OPM and Director Linda Springer. I know that we are all pressed for time, so I will ask that my full statement be included for the record, and I am happy to summarize.

Senator VOINOVICH. Thank you.

Mr. BLAIR. OPM is pleased to endorse and support your legislation, S. 3492, Mr. Chairman. We view enactment of this legislation as an important step to ensure that we are able to have a 21st Century compensation system for Federal employees. I would be remiss if I failed to acknowledge your steadfast commitment and Senator Akaka's commitment to improving Federal management policies and practices. The support of you both has been essential to the significant changes we have already achieved.

As we look to the future, we view S. 3492 as laying essential building blocks entirely consistent with the direction future personnel reforms must take. As you know, years of experience with effective pay-for-performance systems with nearly 100,000 Federal employees has made clear that further experimentation is not needed. We firmly believe having Congress spell out these requirements in statute sends a powerful message to employees, managers, and the American public.

Senator Akaka, I want to recognize you, as well, for your efforts in crafting the Federal Supervisor Training Act, S. 3584. I understand it was introduced Tuesday evening and OPM staff is studying the specifics at this time. However, let me say that I believe we share general agreement about the necessity for and the benefits of good quality training of managers and supervisors, and we look forward to working with you on this legislation as well.

Both of your bills emphasize training, and let me give you a snapshot of our efforts to date. OPM, under both of these bills, would be prepared to set standards and offer effective training, as we have with the Human Capital Initiative under the President's Management Agenda. Through that agenda, OPM has provided extensive guidance to agencies redesigning their performance management systems to better improve employee performance plans by ensuring their alignment with organizational goals and focusing employees on achieving results.

[1] The prepared statement of Mr. Blair appears in the Appendix on page 29.

This year, agencies have identified what we call beta, or test, sites to implement and assess the revised systems, and those agencies will complete the performance appraisal cycle at their beta site by September 30 of this year.

Mr. Chairman, we are pleased your bill sets a direction to move further towards pay-for-performance. With respect to the specific pay-for-performance proposals contained in your legislation, we agree strongly that creating a basic performance contingency for getting any pay increase is a very reasonable first step. We owe it to the vast majority of good performers to acknowledge their positive contributions and not treat their underperforming counterparts in an identical fashion.

Mr. Chairman, I want to note clearly that your bill includes appropriate and significant safeguards and due process requirements to reassure employees they will be treated fairly. We agree this is an essential element for any pay-for-performance feature.

That concludes my oral statement. I appreciate the opportunity to speak to your proposals and am available to answer any questions you might have.

Senator VOINOVICH. Thank you.

We will have, I think, one round of questions for 5 minutes. I understand OPM in May issued a new regulation requiring agencies to submit data to OPM on employee training. This will be very helpful to us in understanding agency needs and correct the longstanding frustration I have with agencies' inability to tell me how their training dollars are being spent. I am still frustrated. I think in their budget submissions there ought to be a separate line for training so that we know agencies are using money for training their people.

Both Senator Akaka's and my bills mandate training for supervisors and managers. Are there additional steps we, in Congress, should consider to ensure agencies have the necessary resources to deliver this training without compromising training for other employees' skills?

Mr. BLAIR. Let me first say that we issued those regulations back in May and they ask agencies to report on their training plans, expenditures, and activities, creating a basic inventory of what training is taking place out there. It will do so in an electronic format, which will be made available to us, and presumably the Congress, if or when asked. It will give a better snapshot of what training is taking place.

The President's budget this year had roughly $20 million in training needs in the area of performance management across agencies. It wasn't one line item in the budget. Rather, it was embedded in each agency and department's request. For instance, OPM had a portion of that which was roughly around $2.1 million. We are still working with the appropriators to ensure that request is maintained.

But, gathering this data by way of this regulation is going to be a significant first step in addressing what, I think, Senator Akaka has said earlier is a patchwork of training that occurs across government. We agree this is a problem. We think that we can do a better job of inventorying it, looking at exactly what is out there in order to get a better idea of where we need to move forward.

But I think that both of your bills speak very highly of training, and that is something, I think, that there is broad agreement on.

Senator VOINOVICH. One of the things that disturbs me is that our appropriators sometimes ignore how important money is for training and for human resources. I would hope that OPM is weighing in on the budget for max HR at the Department of Homeland Security because the House just cut its funding. We need to get some help to get that money restored, although it will not be as much money as they had originally asked for because of the recent court ruling. Are you and Director Springer working on that?

Mr. BLAIR. We are going to be working on that, and I would also say that we would also be looking to leaders like yourself to help us in that endeavor, because it is important that these systems be properly funded in order to move forward.

Senator VOINOVICH. I think it is incumbent on all of the Members of the Senate to share with the appropriators how important dollars are for human resources.

The other thing, Mr. Blair, is that we will have representatives testifying today from two of our major unions. They are really concerned about adequate protections in Title V to protect employees and their pay against retaliation by managers, and would they be preserved under my legislation?

Mr. BLAIR. I would say that today——

Senator VOINOVICH. We are always worried about arbitrariness and capriciousness. How do we safeguard to make sure that performance appraisals and pay decisions are not arbitrary and capricious?

Mr. BLAIR. I certainly don't think that any of us want to give short shrift to those kinds of considerations. Today, those protections are in place, and those protections would remain and be made consistent with today's law under your bill. So I think that it addresses those concerns very well.

Senator VOINOVICH. What I would like to do is to have you provide me with a survey of where situations have arisen where people feel they have been treated unfairly and share that with me.

Mr. BLAIR. OK.

Senator VOINOVICH. Later this Congress, this Subcommittee will be having a hearing on the implementation of pay-for-performance in the Senior Executive Service. I would be interested in hearing from OPM if there are folks that have gone through the process and where someone feels that they haven't been treated properly, what the procedure is, and I would like to hear about that, too.

Mr. BLAIR. Certainly, Mr. Chairman.

Senator VOINOVICH. Senator Akaka.

Senator AKAKA. Thank you very much, Mr. Chairman. Mr. Blair, I want to thank you for your testimony and I also want to thank you for your continued commitment to public service.

Mr. BLAIR. Thank you.

Senator AKAKA. I am pleased to note OPM's initiative to track training. OPM has fought for improved performance management training.

Mr. Blair, you have heard from Senator Lautenberg and also from the Chairman concerning relationships between employees and the managers. Senator Lautenberg believes, as I do, that the

Administration should sit down with employees. Ms. McGinnis, who is on our second panel, makes an interesting point in her written testimony that the level of trust between political employees and civil servants impacts Civil Service reform.

Mr. Blair, what suggestions do you have for improving the trust between employees, managers, and political appointees?

Mr. BLAIR. I think the basic underlying foundation for building trust is fair, open, and transparent communication, and that is one of the reasons, I think, that Senator Voinovich's bill is so important, because it starts to build that line of communication. One way to develop that is to make sure that a supervisor and a manager have clear expectations for what they think an employee should be doing, and those communications should be transmitted, should be in writing, and they should be consistant. There should be feedback made available. The employee's input should be considered, as well, in establishing those expectations.

So I think the first building block in building that kind of trust is making sure that expectations are communicated and communicated well. From then, I think you can build on that. You can move forward on that in ensuring that supervisors and managers understand their role and that employees understand that managers and supervisors are going to be held to the same levels of accountability that employees are. I think that is very important, that you don't have inconsistent treatment of employees across the workforce.

I think both of those things are very well enshrined in Senator Voinovich's bill, and I think that would put us on a very positive step forward to address the concerns you just raised.

Senator AKAKA. Mr. Blair, has there been any discussion within OPM to bring back the Labor-Management Council of the last Administration?

Mr. BLAIR. Well, I am not sure what you mean. Are you talking about partnerships? We have a Labor-Management Council at OPM that deals specifically with OPM issues. But if you are referring to the partnership agreements that were a part of a previous Administration, I am not aware of any.

Senator AKAKA. Thank you. Mr. Blair, you note that the 1978 Civil Service Reform Act (CSRA) includes requirements for employee performance appraisals that were drafted prior to the Government Performance and Results Act of 1993 (GPRA). You conclude that the CSRA paid little attention to strategic contributions and expected results. However, there is nothing in the CSRA that prohibits the linkage between performance appraisal systems with strategic goals and annual performance plans and GPRA. My question is, why do you believe agencies have not made this linkage that you say is missing under the General Schedule?

Mr. BLAIR. Well, I think that agencies weren't held accountable for making such linkages. I think that for a long time, the focus wasn't on results or outcomes or accountability. I think that the President's Management Agenda has helped turn us in that direction. I think that more statutory reform will be needed. I would note that Senator Voinovich's bill would bring about those kinds of alignments, and I think it is very important that agencies move forward, and I think progress is being made. We are not where we

need to be on performance management, but I don't want to say the glass is half-empty when, in fact, tremendous progress has been made in the past 5 years.

I referenced in my oral testimony and my written testimony, for instance, the test sites that we have at the agencies that will be the incubator, the laboratory for better performance management, which then could spread throughout the agencies or departments where they are located. We will be getting more results from those at the end of the fiscal year. I think that it is very important to have strong, robust performance management systems aligned where you have strong, robust performance evaluation systems in place.

I think it can do nothing but help improve morale. I think when a supervisor or manager sits down and communicates clearly with an employee to set expectations, when that employee provides that kind of feedback in that situation, those are the types of situations where employee input is valued. Outcomes are expected, but it is transparent, it is credible, and it will move us forward, I think, in building a higher-performing workforce.

Senator AKAKA. I have a follow-up question, but because my time has expired, I will submit my remaining questions for the record.

Senator VOINOVICH. OK, thanks.

Senator AKAKA. Thank you.

Senator VOINOVICH. Senator Lautenberg.

Senator LAUTENBERG. Mr. Blair, you obviously must be familiar with the opinion of the circuit court and with the story that was in the *Washington Post* where they say the Department's regulations—Homeland Security, we are talking about—renders collective bargaining meaningless, it is utterly unreasonable, impermissible because it makes no sense on its own terms, the three-judge panel found. Another point in the 50-page opinion, the government's position not only defies the well-understood meaning of collective bargaining, it defies common sense. I urge you to read the article, if you haven't seen it, by Stephen Barr yesterday.

How do we comport ourselves with that kind of a judgment by an appeals court? And when in your comments I see that you say, years of experience with effective pay-for-performance, nearly 100,000 employees, have made it clear that further experimentation is not needed, so how do you measure your success? I ask in the interest of a very perceptive Chairman, who makes us obey the rules, so the 5 minutes applies to you as well as it does to me. So Mr. Blair?

Mr. BLAIR. Last year, we had the opportunity to prepare for Senator Voinovich and for Senator Collins, and we would be happy to provide that for you, a report on the experience that we have seen with alternative personnel systems across government. Current law provides for demonstration project authority in which you can experiment with a number of different aspects of personnel management. A number of the demonstration projects out there have incorporated pay-for-performance.

Senator LAUTENBERG. Were these a selected group of employees that were tested, or that were questioned?

Mr. BLAIR. You mean that were a part of the demonstration project?

Senator LAUTENBERG. Particular departments——

Mr. BLAIR. Yes, sir, they were. Many were in the Department of Defense, but you have employees at the Department of Commerce, and I can provide you with the inventory. It was across government.

Senator LAUTENBERG. I would ask you to do that, because the one thing I can't disagree with the Chairman on, and that is that there is absolute need for training. Any organization this size, this complicated and cross-referenced in so many ways needs constant, particularly management training. It is distressing to find out that funds are either not available or are not used in that manner.

Mr. BLAIR. If I can just continue a little bit further, because I think that this will help further our discussion, it is interesting, especially with those alternative personnel systems and the experience we have seen, when you go into these systems, there is great employee angst, anxiety, and uncertainty about these new systems when they enter it, and that is only fair——

Senator LAUTENBERG. These are subjective views of yours, sir.

Mr. BLAIR. Well, no, these were——

Senator LAUTENBERG. Well, I am going to ask you to furnish in writing——

Mr. BLAIR. I will be happy to. I mean, based on the surveys that we have done——

Senator LAUTENBERG. In the interest of time, I am going to continue and we will live by those rules. Is morale a factor when evaluating the success of these programs?

Mr. BLAIR. Absolutely. That is what I was going to address. We look at employee satisfaction, and over time, employee satisfaction starts at a low level and increases, and increases to the point that the majority of employees would not want to go back to the old General Schedule system after having experienced these systems. So clearly, there is room for improvement from the General Schedule. These systems employ performance management and evaluation plans which recognize distinctions in employee performance, reward better performance, and make——

Senator LAUTENBERG. Yes, I know the opinions that you expressed and I respect them. Honestly, I do. But there are a couple things that I really want to get to. One of them is the collective bargaining situation that was revealed in the commentary by the circuit court. What do you think about that? Is the court making sense or not?

Mr. BLAIR. I haven't had a chance to study the 50-page opinion yet, but I will say the Administration certainly had one side. The unions had another. The court ruled for the unions, and at this point, the Administration is deciding what course of action to proceed. We certainly respect the court's opinions in terms of——

Senator LAUTENBERG. I hope so.

Mr. BLAIR [continuing]. Not moving forward, but I think what is also interesting in here is that there are other opportunities to move forward in areas outside the labor-management relations area and that seemed to be the focus of the court's attention. I think it is important to note that Senator Voinovich's bill has no labor-management changes in that, and so I wouldn't want one to

confuse the DHS and NSPS proposals with the proposal that Senator Voinovich has.

Senator LAUTENBERG. Mr. Blair, have you been in government a long time? I don't know you.

Mr. BLAIR. Actually, I used to serve on the staff of the full Committee for 4 years.

Senator LAUTENBERG. You did? Any experience with outside employment practices, outside of government?

Mr. BLAIR. No, sir.

Senator LAUTENBERG. Thanks, Mr. Chairman.

Senator VOINOVICH. Thank you, Senator Lautenberg. It will be interesting, Senator Lautenberg, the first spiral of the new National Security Personnel System is underway, so we will have a good chance to see how that is working. We will have some oversight hearings to monitor implementation. This is what Senator Akaka and I had a hearing on in April.

Second, it is interesting that entities, such as the Department of Defense laboratories, operate successful alternative personnel systems and have asked to be kept separate from the new National Security Personnel System until it has been in place. They want to be able to compare data before making additional changes.

We need good information from people about how this system is actually working.

Senator LAUTENBERG. Excellent.

Senator VOINOVICH. Mr. Blair, thank you very much.

Mr. BLAIR. Thank you.

Senator VOINOVICH. I want to also echo Senator Akaka in thanking you for your service.

Mr. BLAIR. And thank you for yours, as well.

Senator VOINOVICH. I just want to say that I was really impressed this week, and I think Senator Akaka was, as well, when Director Springer came in with her team. It seems like there is a new day in OPM. Let us just keep working on it, OK?

Mr. BLAIR. Thank you, sir. Thank you.

Senator VOINOVICH. Thank you.

I would now like our next panel of witnesses to come forward. Darryl Perkinson is here on behalf of the Government Managers Coalition. Welcome to my good friend Colleen Kelley, President of the National Treasury Employees Union. Colleen, good to have you back again. Jacqueline Simon, I am so pleased that you are here for the American Federation of Government Employees. And Patricia McGinnis, who has been working with me since 1999 on Federal human capital policy, is here for the Council for Excellence in Government. I think we have a really good, well-balanced panel. You have the management side, the union side, and we have, I guess, the good government side. You are all good government.

Now that you sat down, will you stand up and I will administer the oath. Do you swear that the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. PERKINSON. I do.

Ms. KELLEY. I do.

Ms. SIMON. I do.

Ms. MCGINNIS. I do.

Senator VOINOVICH. Thank you. Mr. Perkinson, it is nice to have you back again. We are anxious to hear your testimony. I ask you all to observe the 5-minute rule. Your written testimony will be included in the record. Mr. Perkinson, please proceed.

TESTIMONY OF DARRYL PERKINSON,[1] NATIONAL PRESIDENT, FEDERAL MANAGERS ASSOCIATION, ON BEHALF OF THE GOVERNMENT MANAGERS COALITION

Mr. PERKINSON. Thank you, Chairman Voinovich, Ranking Member Akaka, and Members of the Subcommittee, for allowing me to be here representing both the Government Managers Coalition and the Federal Managers Association to present our views on enhancing employee performance.

My name is Darryl Perkinson and I am the President of the Federal Managers Association. I testify before you today not only on behalf of the organization I head, but also as a member of the Government Managers Coalition. The GMC was founded earlier this year to unify five major executive and management associations, the Federal Aviation Administrator Managers Association, the Federal Managers Association, the National Council of Social Security and Management Associations, the Professional Managers Association, and the Senior Executives Association, in advocacy for common-sense solutions to bolster good government through the Federal workforce.

Our coalition is a deliberative body and we only put forth positions that have received the unanimous support of the members of the coalition. When we reach unanimity on a position, the GMC speaks for nearly 200,000 Federal supervisors, managers, and executives, ranging from career senior executives to mid-range GS supervisors.

To date, we have endorsed four broad legislative initiatives to improve employee performance: Rewarding Federal employees for not abusing sick leave; an extension of the probationary period for most new employees to 2 years; clarity on the status and treatment of managers when subordinates file EEO complaints; and mandatory supervisor training and retraining for those who manage other Federal employees. The GMC endorses these initiatives, which we believe will improve the overall effectiveness of managers to enhance employee performance and produce more results for their agencies.

It is clear to us that this does not happen to the degree that it should. Mandatory training is the only way to ensure we are not only hiring the best and the brightest, but we are giving them the tools to do their jobs to the best of their abilities.

In order for mandatory training to achieve results, we believe there are five critical elements that are essential. Every supervisor and manager in Federal Government must receive mandatory supervisory training within one year of their initial appointment. Supervisors and managers should receive updated training every 3 years after the initial training. Training of managers must become a priority within each Federal agency and department. A specific authorization of Federal funds must be made to underwrite the

[1] The prepared statement of Mr. Perkinson appears in the Appendix on page 34.

costs of training that is in addition to money currently allocated to each agency and department for personnel costs. And managers must be afforded participation in processes that arise from constructive feedback and evaluations required of them from this legislation.

The GMC is pleased that this Subcommittee recognizes the need for mandatory training programs to be implemented for all supervisors and managers throughout government. Current law, Public Law 108–411, requires agencies to establish a training program for managers on how to manage employees whose performance is unacceptable, how to mentor and improve employee performance, and how to accomplish performance appraisals. However, there is no accountability for managers to participate, and when budgets are tight, these discretionary programs are often the first to have their funding cut. This problem is exacerbated by the fact that ongoing personnel reforms require a well-trained, well-versed management team to implement, and they challenge supervisors to learn new skill sets. Experience from this ongoing reform effort has shown that managers must be well trained in advance to meet the challenges of a Federal pay system that is moving to pay-for-performance.

The legislation introduced by Chairman Voinovich, the Federal Workforce Performance Appraisal and Management Improvement Act, includes much of the GMC's desired program, providing for training within a year and every 5 years thereafter. We would like to thank Chairman Voinovich and his staff for accepting the suggestion by the GMC that the program allow supervisors to receive credits for training so they do not have to retrain upon transferring to a different job within government.

We also commend Ranking Member Akaka for his continued interest and action on this important issue and for including in his legislation, the Federal Supervisor Training Act, an accelerated time table and noted authorization of funds. In these times of strained budgets, training is viewed often as a secondary expense and is, therefore, the first program to meet the chopping block when Congress, the Administration, or an agency must allocate funds. With mandatory training taking the force of law in these bills, Congress and the Administration will be obligated to recognize the fundamental requirement to train Federal supervisors and the management force. Our biggest concern is that your efforts in drafting this legislation and bringing to it the final passage will not achieve the results unless you seek a specific authorization of funds to underwrite the costs of that training.

I thank you for the opportunity to present our views and I will be pleased to answer any questions you may have. Thank you.

Senator VOINOVICH. Thank you, Mr. Perkinson. I think it is wonderful that you have all joined in a coalition because that gives us a nice perspective from all of you on the management side of government.

Mr. PERKINSON. Yes, sir.

Senator VOINOVICH. Ms. Kelley.

TESTIMONY OF COLLEEN M. KELLEY,[1] NATIONAL PRESIDENT, NATIONAL TREASURY EMPLOYEES UNION

Ms. KELLEY. Thank you very much, Chairman Voinovich, Ranking Member Akaka, and Senator Lautenberg. I really appreciate the opportunity to be here today at this important hearing.

Mr. Chairman, NTEU appreciates your recognition of the need for supervisor training, accountability, and development. NTEU also appreciates Senator Akaka's introduction of the Federal Supervisor Training Act, S. 3584. We believe that S. 3584 expands and develops in a very positive way the basic mandate for supervisor training in S. 3492.

S. 3584 adds several essential features to a supervisor training initiative that NTEU views as critical. A more detailed description of the type of training to be required, specifying that training must be interactive and instructor-based, more than simply a review of written materials. Training must be delivered by training professionals in a situation, either face-to-face or Internet-based, which allows dialogue, questioning, and interaction between student and teacher.

S. 3584 also requires more than simply training in the supervision of employees, but it requires working with employees, communicating with them, and discussing their progress. A good manager needs to do more than correctly evaluate an employee. A good manager needs to know how to develop an ability to help his or her subordinates to become top performers. Absolutely essential, we believe, is the requirement in the Akaka bill to include supervisor training on prohibited personnel practices, particularly violations of statutorily prohibited discrimination and whistleblower rights.

S. 3584 also adds another important feature which is missing in S. 3492, the promulgation of management performance standards. While S. 3492 refers to holding supervisors accountable, it does not include any penalties, disincentives, or rewards that are tied to managerial performance. It is unclear to me what provisions in the bill would provide that accountability.

NTEU is also concerned, as Mr. Perkinson identified, as to whether this training initiative will be adequately funded. NTEU would prefer that this legislation clarify exactly where the resources will come from to finance this important initiative.

With regard to S. 3492, much of the section dealing with performance appraisal systems is already in place. For example, linking the system with the strategic goals in the annual performance plan of the agency is a basic tenet of GPRA. While the bill calls for a written performance appraisal annually, OPM regulations currently call for a written rating of each employee on an annual basis. We have no objection to the language in S. 3492, which makes clear that a written performance appraisal is required annually.

The major change, however, in this section adds the term "compensating" to the list of uses for which the performance appraisals can be used. Current law states that agencies can use performance appraisals as a basis for training, rewarding, reassigning, promoting, reducing in grade, retaining, and removing employees. The

[1] The prepared statement of Ms. Kelley appears in the Appendix on page 38.

purpose of including "compensating" in this list is made clear in Section 4 of the bill, which states that an employee whose summary rating of performance for the most recent completed appraisal period is below fully successful, that employee may not receive the annual across-the-board or locality pay increases.

Under current law, an employee who has received an unacceptable performance evaluation may not receive a grade or a step increase. These increases are tied to performance and it is entirely appropriate that they be withheld if an employee's performance is less than acceptable. The annual across-the-board and locality increases, however, were created by the Federal Employee Pay Comparability Act with the purpose of achieving comparable pay between Federal employees and their counterparts in the private sector. These increases are tied to the position and location, not to the individual, and therefore, withholding these increases based on the performance of the individual completely drops the goal of comparability, which has been the goal of the Federal sector for decades. If Congress wants to drop the goal of comparability with the private sector as the basis of Federal pay, I think that should be noted and debated. That is clearly the result of what this proposal will be and NTEU opposes that.

According to a GAO report last year, they identified that three-tenths of one percent of employees rated in the year were rated unacceptable. This is an extremely small number and should not drive major changes in the basic tenets of our pay system.

The 2005 GAO report also identified various impediments to dealing with poor performance. They identified time and complexity of the processes, lack of training in performance management, and communication, including the dislike of confrontation. None of the top impediments cited include lack of sufficient disincentives for poor performance. Rather, the impediments highlight managers' reluctance to engage in the processes that will have an impact rather than on the processes themselves.

I would close by identifying another feature in the bill that I was very surprised at, and this was a portion that says that the rank and file employees would be denied across-the-board and locality increases unless a performance-based standard is achieved. However, it appears that SES employees would be provided with a pay increase totally unrelated to individual performance. To increase pay for the highest-paid employees regardless of their performance in the same piece of legislation that would be cutting the pay for front-line employees based on performance is only going to increase the skepticism about a new pay-for-performance system being fair.

I would also identify time lines as a potential concern for NTEU. S. 3492 says that agencies will have to have new appraisal systems certified by OPM by July 2007. Based on the problems both DHS and DOD have been having in designing new systems, this seems a very short period of time, and also to affect pay increases for the SES 180 days after enactment, long before other sections of the bill would be in place, will give the appearance that the goal of this legislation is about providing the highest-paid employees with pay increases unrelated to their performance, and I would hope that is not the case.

So I appreciate the opportunity to testify and welcome any questions you have.

Senator VOINOVICH. Thank you very much. Ms. Simon.

TESTIMONY OF JACQUELINE SIMON,[1] PUBLIC POLICY DIRECTOR, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

Ms. SIMON. Mr. Chairman, Ranking Member Akaka, and Senator Lautenberg, on behalf of the more than 600,000 Federal and District of Columbia employees AFGE represents, I want to thank you very much for the opportunity to testify today.

You have asked for AFGE's views on two legislative proposals, the Federal Workforce Performance Appraisal and Management Improvement Act and the Federal Supervisor Training Act. AFGE appreciates the time and attention that have gone into the development of these proposals as well as the evident intention to improve the functioning of the Federal Government and the ability of Federal managers to perform their jobs competently.

The proposal in S. 3492 takes a new turn from previous proposals. Heretofore, pay-for-performance proposals have been promoted as opportunities to reward high performers and help the government recruit and retain the best possible talent. Although these schemes invariably include a punitive element, that element is usually barely mentioned. The emphasis is always on the positive, the promise of higher pay for employees and higher performance for agencies.

Yet this bill provides virtually nothing in the way of reward. The emphasis is all on the negative, the threat of punishment for so-called poor performance. S. 3492, in other words, takes an emphatic position on the proverbial, which works better, the carrot or the stick? This is all stick and no carrot.

The proposal to withhold the annual pay raise in S. 3492, if it were the only thing that had happened to Federal employees, and we knew that it were an end in itself, would be one thing. But after 5 years of having the Bush Administration take away collective bargaining and appeal rights from the two largest agencies in the Federal Government, and knowing of their desire to spread this bad system government-wide through the Working for America Act, and even after three negative court decisions, AFGE cannot support even a modified version of S. 3492.

During the same period when Federal employees have had to try to fend off the Administration's efforts to take away collective bargaining and appeal rights and privatize their jobs, we have also had to put up with skyrocketing health insurance premiums and an OPM that either cannot or will not engage in serious negotiations with insurance companies to keep a lid on their greedy behavior and whose focus in regard to health insurance has been to try to shift more costs onto employees and retirees. Now, we believe that is a performance problem that needs attention.

In the meantime, overall Federal pay continues to lag behind the private sector and State and local governments by about 14 percent, on average, nationwide. If we start making the annual pay

[1] The prepared statement of Ms. Simon appears in the Appendix on page 44.

raise optional, it will only lay the foundation for reducing raises even further in the future, thereby punishing the more than 95 percent of Federal employees who by all accounts are doing a very good job.

Contrary to what some pay-for-performance advocates have suggested, Federal employees do not lie awake at night hoping their supervisor will withhold the annual pay raise from their less-than-stellar coworker. When they are not worrying about their lengthy and increasingly expensive commutes, the rising cost of health insurance, and whether their jobs are going to be contracted out, chances are they are worrying about how to keep up the pace at work, where they are continually expected to do more with less and do so without gratitude or recognition.

On the rare moments when they might think about poor performers in their workplace, what they do want is for their supervisor to take appropriate action to correct the behavior of the poor performer. It is undoubtedly the case that sometimes people are poor performers because they are lazy, or have a negative attitude. For those employees, the supervisor should take action under current law. Put the employee under a performance improvement period and then take disciplinary action if that doesn't succeed.

Often, however, people are poor performers because they truly don't understand how to do their work, or they think they do but need additional training and attention from their boss. They may be in the wrong job. For those employees, withholding an annual pay raise will only serve as an intimidation and a disincentive to ask for additional help. It won't help get the job done.

In contrast to S. 3492, the proposed Supervisor Training Act is focused on positive strategies that make sure Federal managers receive adequate, high-quality training designed to teach them how to help all Federal employees improve their performance. One thing that bears mention is that the bill establishes a program whereby experienced supervisors mentor new supervisors by helping them with such important managerial skills as communication, critical thinking, responsibility, flexibility, motivating employees, and teamwork. In the context of political denunciations of the current system's emphasis on longevity, it is refreshing to see a legislative proposal that values the benefits of tenure and experience and the transmission of knowledge and skill.

This concludes my statement. I would be very happy to answer any questions you or Members of the Subcommittee may have. Thank you.

Senator VOINOVICH. Thank you very much for your testimony. Ms. McGinnis.

TESTIMONY OF PATRICIA McGINNIS,[1] PRESIDENT AND CHIEF EXECUTIVE OFFICER, COUNCIL FOR EXCELLENCE IN GOVERNMENT

Ms. MCGINNIS. Thank you, Mr. Chairman, for inviting me to be part of this discussion. I want to compliment you and Senator Akaka for the very constructive bipartisan effort that you have shown over the years in trying to improve government performance

[1] The prepared statement of Ms. McGinnis appears in the Appendix on page 62.

and also to develop the potential of Federal workers to do their jobs well. The full Committee and this Subcommittee really are a model in the Congress for bipartisanship.

As you know, the Council for Excellence in Government is a nonprofit, nonpartisan organization that focuses on improving performance of government, building public-private partnerships, and engaging the American people to improve government results and accountability. We are a group of private sector leaders who have served in government and truly care about these issues.

Attracting and developing talented people for public service is one of our key objectives, and as you know, we have worked hard to bring different perspectives on these issues together in constructive discussions. A series that you participated in, we held with the *Washington Post* to focus on what the new public service can look like given the huge number of retirements and the opportunity to reshape it. We brought together for the first time in an historic session the union leaders, AFGE President John Gage and Colleen Kelley from NTEU, with OMB Deputy Director Clay Johnson and Comptroller General David Walker. This was the first time they had ever appeared in public on a panel together, talking with each other.

It was very interesting. We had two sessions, one on their vision for public service 10 years out, because we wanted to get beyond all of the litigation and legislation and issues on the table now. It was very interesting how much of a consensus there was. I think they were surprised themselves when they heard each other.

John Gage talked about a rebirth of the service culture in the Federal Government, more collaboration, more choice, less of an adversarial relationship between employees and management. Clay Johnson talked about a culture where getting better is just what we do, getting better personally, professionally, programs getting better. Colleen Kelley described a workforce that is valued, respected, and recognized as having expertise, and employees who would be given the resources to do their jobs well. And, of course, David Walker also talked about a rebirth of public service where the government would be an employer of choice and we would be able to attract the best and brightest.

The consensus on this vision falls apart when these leaders get into details of how we should get there, and that is why I brought up the lack of trust that Senator Akaka mentioned earlier and also the lack of ownership of solutions. Those two things, the lack of trust and the lack of participation and ownership of the solutions, I think are the main roadblocks to meaningful reform.

John Gage was deeply cynical about cronyism and patronage. Colleen Kelley called for a two-way conversation between management and employees. Clay Johnson talked about a bad tone, the wrong tone. And David Walker said, and we certainly agree with this, that the current GS system is not market-based, it is not skills, knowledge, and performance oriented, and it does not result in equal pay for work of equal value over time. I think it is really too bad that the discussion now is either let us stick with what we have or let us do something dramatically different, and there seems to be nothing in between that we can agree on.

That is why I think your legislation, and also Senator Akaka's bill, represent important steps, progress that could be built upon to create a much larger reform effort.

Linda Springer came to the forum and talked about—and I think this is very important because it should be part of the conversation about reform—the challenge to recruit, engage, and manage a whole new wave of employees who want more flexible work arrangements, greater mobility, and different kinds of training. If you look out there at the job market and who we are going to have to recruit, we need to understand both what they are going to find attractive about the government and also what are the state-of-the-art best practices, many in the private sector, that we should be emulating.

You joined us in one of these sessions to announce that you were going to introduce this bill. We really appreciate that.

Let me turn to what the employees say about these issues, because I think that should guide the discussion, almost more than what the leadership of either the unions, the Administration, or other organizations have to say.

Senator VOINOVICH. Ms. McGinnis, if you can kind of wrap it up, I would appreciate it.

Ms. MCGINNIS. I will. In the Federal Human Capital Survey, the most negative aspects of government service, I think, represent the to-do list. One, if you took this bottom part of the list, you would base personnel decisions on merit, recognize differences in performance in a meaningful way, deal with poor performers—that actually is a very big concern among employees, provide opportunities for employees to get better jobs, and improve certain benefits.

And then if you look at the differences between public and private sector, you would add working on increasing the level of satisfaction with training, the level of satisfaction with information received from management, and how good a job my supervisor is doing.

That is a great agenda for change and the council supports both bills before us today.

Senator VOINOVICH. Thank you very much. I would like to comment. I have been working on personnel issues for 8 years. When Congress debated NSPS and max HR, I advocated for binding arbitration. I think the fact that we had "meet and confer" where at the end, management did what they wanted, did not end well. It went to the courts and they have made their decision. I don't know what the Administration intends to do next, but from this Chairman's point of view, I would like to move forward and see if we can't concentrate on figuring a way that we can work together.

Ms. Kelley, you mentioned the fact that three-tenths of one percent were not satisfactory. David Walker described the performance appraisal systems as abysmal. I know that it is not reflective of reality. GSA Administrator Steve Perry, who once worked for me, said when he came to GSA, the performance appraisal system was zero. I think if someone goes back and looks at what he did there, they will find that it is much improved. There were some super performers. They started to take the time to write effective performance appraisals. It wasn't just, get it over with and go on, file it and forget it.

The point I am making is that the performance appraisal really is to let somebody know where they stand, let somebody know that someone cares about them. But the worst thing, I think, for anyone is to come to work for an agency, come in every day, do their work, and not know whether or not they are doing a good or bad job, how they can improve, or how the work that they do is connected with the goals of the agency. This is the goal of my bill.

It seems that there is one thing that has unanimity here: Training. Ms. Kelley, you remember I sent that survey to 12 agencies when I first came to Congress. I asked them how much they were spending on training. Eleven came back and said they didn't know. One said, yes, we do, but we won't tell you.

How do we get training ingrained in the administrative branch of government? How do we make sure that is getting done? How do we also communicate with the Congress about the importance of these dollars to employee satisfaction and excellence and doing a better job for the American people?

Ms. KELLEY. I think that is an appropriate question and a complex one, because for me, what I have seen over the years is that the tone and attitude come from the top. That is where the recognition and support has to be, and it is not there as a rule. And even when you get to the point of, as you suggested, Chairman Voinovich, a line item in the budget, in my experience, training is about a lot more than just a line item. Although, a line item would be a good place to start, at least to know that there were funds identified for it. One of the things that often blocks training from being delivered, as it should be, out in the workplace is the staff time away from the job that it would take to be in training, and that is never ever built into whatever the budget dollars are, even if they would share those with you and put the appropriate dollars in.

The second issue I would identify is the substance of the training. There are many agencies who will tell you that they do training and they can tell you how many hours they did. But if you ask employees if that is the training that they need to do their job, they would tell you no, that the training being provided is not the training that they need, or that they should be provided by the agencies. I think many managers would say the same thing.

Senator VOINOVICH. One of the requirements in my legislation is that before an agency could go forward with the new system they would have to be certified by OPM and managerial training has to be completed so that the employees know what they are doing. It must be quality and not just going through the motions.

Any other comments about how we can guarantee the money for training?

Ms. SIMON. Sir, I would like to comment on your original question with regard to training. I think that, although you are right, there is certainly unanimity on this panel, and probably any other, that funded training would be a valuable and important component of the success of any kind of performance management system. The really difficult question would be, what would be the content of the training.

Where the conflict arises is the question of how much discretion managers will have to set those performance standards, defining

what those standards are, and what role employees can play in the development of those standards. These are very difficult issues, and when they are established unilaterally and/or established in a way that they can be interpreted entirely at the will of management, training is the least of the problems. That is the difficult part.

Senator VOINOVICH. So, if OPM is going to be the overseer on this, it would seem to me that the kind of things that you are talking about would involve communication so there is consensus. I would sure do that, sit down with the agency and say, here is what we think, what do you think about this. So that they start out from the beginning with some understanding of what is this that we are talking about.

Ms. SIMON. Well, there is no question about that. But, in the context of, just, for example, DHS and DOD, the conversations our union has been involved in with the management of those agencies and the people in those agencies charged with trying to design the type of performance criteria would be involved in a performance appraisal, a lot of times what is presented are these extremely vague competencies, they are called, and they have to do with personal characteristics that are extremely difficult to pinpoint——

Senator VOINOVICH. Pardon me for interrupting you, because I am limited in my own time, also.

Ms. SIMON. Sure.

Senator VOINOVICH. Have you looked at the Senior Executive Service and the first spiral of NSPS?

Ms. KELLEY. I read a paper about it, but I wouldn't know——

Senator VOINOVICH. I will tell you, I would really like you to look at how the Spirals are being implemented. They are working to address what both of you are concerned about. In other words, I would really like you to look at how they are going about training the trainer, implementation, including the program, and the training they have done to conduct performance evaluations. I really would like you to look at it and tell me what you think of it.

Ms. SIMON. One last very quick comment——

Senator VOINOVICH. Yes?

Ms. SIMON [continuing]. And that is a lot of what we have looked at in that context has involved what can only be described as highly political standards and politicized standards for evaluation, and that is really where the problem lies.

Senator VOINOVICH. Well, I would ask you to do it specifically. Tell me what you think. Tell me how it is politicized.

Senator Lautenberg, and then we will have another round.

Senator LAUTENBERG. Thanks, Mr. Chairman.

For Ms. Kelley, you heard my question before that I asked about morale. Do you try to gauge that in some way, whether formally or informally, and how do you do it?

Ms. KELLEY. Actually, I travel a lot and visit with Federal employees in all of our agencies at their workplaces and I don't have to do very much questioning or research, because usually within the first 5 minutes, employees are starting a conversation with me about how bad morale is. It is always framed around the fact that they are all looking for—not all, but many of them are looking for other jobs. They are counting the days until they can retire.

There was a time when I would talk to our members when everyone knew their eligible retirement date but very few were planning on going on that date. That is very different today. Many in the workforce, Homeland Security in particular, is where I hear that employees are looking for other jobs. It is a place that they do not feel supported. They do not feel that their work is respected, that their opinions are valued, and they are not looking at staying with DHS for a long time.

Senator LAUTENBERG. Do you have an idea what the turnover in DHS is? I think, Mr. Chairman, DHS has a fairly high turnover rate. Are you familiar with it?

Ms. KELLEY. I know anecdotally it is a high turnover. When I have asked for that number, they have told me they cannot—they have told me it is standard with the rest of government, which I do not believe, and that they cannot share the numbers with me because it is a national security issue. So maybe if this Subcommittee were to ask that question, they would provide you with the turnover numbers, and I would be very interested in those, too. But I know it is higher than——

Senator LAUTENBERG. We have no problem asking that question.

Senator VOINOVICH. In fact, we ought to have an oversight hearing on the reorganization. Let us face it, putting all those agencies together and forming one department and one culture. Senator Lautenberg, do you remember how we came up with the idea? Senator Lieberman initiated it on the recommendation of the Hart Rudman Commission. Remember that?

Senator LAUTENBERG. Yes.

Senator VOINOVICH. The Administration initially said no. Well, the public pressure built up, so finally the light went on at the White House. When the Department was created, it combined 22 agenceis and 180,000 employees, the biggest management undertaking that this government has had since creating the Defense Department.

Senator LAUTENBERG. Sure. Twenty-two departments merged into a department, 180,000 employees——

Senator VOINOVICH. It hasn't worked well. What Administration should have done is evaluate what agencies might go together, maybe start out with four or five. So here we are, but the Department has some major problems, and——

Ms. KELLEY. And so many of those decisions were made without any input from employees or the unions who represent them. There were unilateral decisions made. They were bad decisions made from an operations standpoint and surely from an employee morale perspective.

Senator VOINOVICH. Well, remember when they were developing the regulations, we talked about that. That is why I said we would have been much better off with binding arbitration so that people would have worked it out early on, because they would have known there was somebody objective or impartial that would make the final decision if there was not consensus.

Senator LAUTENBERG. Also, Mr. Chairman, I think it is fair to say that there was a lot of flailing about in panic, in dismay about what had happened, that it was so terrible. In our country's history, it is probably one of the most significant events that changed

our world. So as a consequence, there was a rush, unfortunately, I think, hasty, and I have made some outlandish recommendations about maybe—I am not sure about divorce, but at least separation for now, an agreed upon mutual separation agreement.

Right now, Ms. Simon, can't managers and supervisors already award quality step increases to high performers and withhold regular step increases for poor performers?

Ms. SIMON. Yes, that is absolutely the case. What is unique in the proposed legislation is to put the locality-based salary adjustment and the National Employment Cost Index based-salary adjustment at risk and contingent upon a performance appraisal. Within-grade increases have always been based on performance and Federal employees become eligible for them at certain intervals over the course of their careers. But they are performance-based.

Senator LAUTENBERG. But why is this system inadequate to ensuring accountability for employee performance?

Ms. SIMON. Oh, I don't think that it is inadequate. If there is anything about it that is inadequate, it would be the size of the within-grade increases. They are not enormous. But I think surveying the academic literature on what motivates employees, particularly public employees, to higher performance, money is not the only thing. I don't mean to downplay it by any standard. Federal employees are underpaid relative to their counterparts who perform similar work in the private sector, which is why the principle of comparability was enshrined in the law many times over, but most recently, since 1990, in FEPCA.

But there are performance-based elements. Last year, or was it 2 years ago now, the Workplace Flexibility Act gave enhanced flexibility to Federal managers to reward employees they wanted to retain or recruit, presumably based on their either manifest high performance or potential for very high performance. There are many flexibilities within the existing system that haven't been adequately funded, which is why they are rarely used. But there certainly are opportunities to reward high performers and, of course, there is also more than adequate, I would say, management authority for dealing with poor performers.

Senator LAUTENBERG. Mr. Chairman, the obvious picture that is drawn in terms of what needs to be done is if you look at the military today and see that in the Reserve, the Guard, there are huge bonuses, relatively speaking, for people with certain skills that challenge the existing structure. And I think the same thing happens today in the Federal Government.

Mr. Perkinson, I want to ask you, what is the effect of proper functioning Federal departments when political appointees have no relevant experience to the job that they are nominated for? Is that a matter of some consequence?

Mr. PERKINSON. With leadership coming from the top, yes, sir, there are times when it does affect management, but I think in the management ranks and speaking for managers, we a lot of times understand, adjust, and work with our employees to the maximum.

I guess one of my big fears or one of my big problems with all this discussion is when we talk about poor performers and managers not adhering to or listening to the needs of the employees, the public gets this perception it is a major percentage of our em-

ployees. But I go to work every day and 90 to 95 percent of our employees do great jobs and dedicated to this country and it is outside the scope of the leadership. We put the management responsibility to those people at the agency level and they are at the grassroots dealing with the employees. And I say it has been my perspective in my travels that the only things that get highlighted are those things that hit the press. The poor performers stand out. Yet every day, 90 to 95 percent of our people do an outstanding job for this country and support this country to the maximum.

Senator LAUTENBERG. I believe that.

Ms. Simon, I noted something in your comments that aroused my curiosity. We are saying here that in the private sector that pay-for-performance is a fad. I hadn't heard that and I was just curious as to how you draw that conclusion.

Ms. SIMON. I drew the conclusion based on a survey of the literature on human resource management that I try to keep up with. In particular, I have followed the work of Professor Jeffrey Pfeffer of Stanford University's Business School. He is often quoted in the context of these debates arguing that pay-for-performance eats up enormous quantities of resources and makes everyone unhappy and has yet been empirically shown in large private sector firms not to justify its cost, its administrative cost, when the actual impact in terms of productivity improvement is measured in any objective way.

Consequently, there are many large corporations in the private sector that have done away with elaborate differentials for employees in the same positions in terms of their pay increase——

Senator VOINOVICH. If you could move on.

Senator LAUTENBERG. Yes. I think, Mr. Chairman, you and I, in our debate, used a little bit of the time, so I would like to use some that I lost.

Senator VOINOVICH. All right. Go ahead.

Senator LAUTENBERG. Just for a moment more, thank you.

This stunned me, Mr. Chairman, because while I am largely on your side of the issue, I don't know of any company that has decided that what we will do is pay on the basis of longevity and not performance. I want equity and fairness. I want the right for employees to have collective bargaining. My father described an incident, when he was a young man working in a mill of standing with his hat in his hand because his manager told him that if he took off of work for a very important religious holiday, that he shouldn't come back to work. That left a mark on my thinking almost for ever, because collective bargaining then came into play and it was different.

So this is a new one for me. While I am very conscious of our responsibility to our people who work for us and the outstanding performance that we get, and in this body here, let me tell you, working for Senators, that is really a trial. [Laughter.]

So I thank you all for your appearance and your views, and Ms. Simon, if you could give us anything that supports that——

Ms. SIMON. I would be happy to.

Senator LAUTENBERG. OK. I appreciate it. Thanks, Mr. Chairman.

Senator VOINOVICH. Thank you, Senator Lautenberg.

I am just going to finish up with the same question I started with. How do we guarantee that the money for training is going to be available? Senator Akaka, Senator Lautenberg, and I agree it needs to be done. It doesn't seem like it is happening. Ms. McGinnis, do you have any ideas on that?

Ms. MCGINNIS. I do think that honing in on the investment needed for training, what is being invested now and what is needed, would be very helpful. We know that in the private sector, 2.5 percent to 3 percent of payroll is allocated for training. It is hard to get those comparable numbers for government. They really don't exist. But there are studies that show that certain industries are spending as much as twice as much on training as government. So we need to know what we should be aspiring to and look at the state of the art training and what aspects of training do correlate with performance.

Senator VOINOVICH. That is a good idea. I can't remember now the percentage. When I was mayor, we had nothing. I think we looked at General Electric and found they allocated 10 percent.

Ms. MCGINNIS. You really need to know——

Senator VOINOVICH. Maybe that number is high, but these high-quality performing organizations put a lot of money in training. Perhaps getting information like that across to the agencies and to Members of Congress will demonstrate how important it is to a good functioning organization. We must recognize that this is money well-spent, a good investment in good government.

Ms. MCGINNIS. I would recommend that.

Senator VOINOVICH. Mr. Perkinson.

Mr. PERKINSON. Mr. Chairman, I would like to share with you, I think the line item is a good start. I wouldn't say that it would be adequate, but to give you an example, Senator Akaka, a few years ago in the shipyard community, when they were trying to restart their apprentice programs, the money was getting lost in the Department of Defense overall authorization. Senator Akaka took great steps in applying an apprentice appropriation for the naval shipyards so that they could get started, and they dedicated those funds to start up that program and to get the apprentice funding done. We have now gone to where the money is now within the Naval Sea Systems Command budget, but that first step in dedicating it to that effort caused focus at the agency level to where those funds were spent for that specific type of training. So putting the line item in, I think, is the right start in having some management tool to ensure that those funds are being dedicated to the level of training that we would like to have.

Senator VOINOVICH. Any other comment on that?

[No response.]

Senator VOINOVICH. I had a hearing earlier this week with David Walker and with OPM Director Linda Springer. My observation is that they are on the right track. I will say that I am impressed with Linda Springer. I think she is sincere, hard working, and wants to get the job done. We didn't have any of you there, and it seems to me that if reforms are going to be successful, at least from my perspective, you have to have a really good Office of Personnel Management. I mean, it has to be functioning, it has to have the resources to do the job. They have to have the com-

petencies in place to evaluate whether or not people have been trained up to the point where they can do objective performance appraisals.

I would like each of you in the next couple of minutes to just give me a quick appraisal of how do you think OPM is doing?

Mr. PERKINSON. I will start off. I think OPM is making strides in the right direction. I think we have a long way to go in that regard because a lot of times, policies that are implemented and discussed stay within the beltway. When you get down to the agency level and to the office level, those policies and procedures, that are great ideas, are not implemented at the local level, for whatever reason. Be it budget, be it agency decision, whatever, they are not implemented.

So that being said, I think that we could give Linda Springer and OPM, if we would give them some type of authoritative push through for the policies and procedures that they do——

Senator VOINOVICH. Are you familiar with the new plan that she has, and the metrics that she is using?

Mr. PERKINSON. Yes, sir, but I still contend, and it has been my experience, that there is some disconnect when it goes down to the local level. She is working hard on it and she is making steps in the right direction, but at the local level, we haven't seen it.

Ms. KELLEY. I think that they have good intentions and are focused on a lot of the right issues. I have a very open and functional relationship with Linda Springer and look forward to working with her on these issues. In my experience, two things happen. Even when OPM puts forward good, solid advice and plans for implementation, they really have no authority to make that happen in the agencies. So it is selectively implemented or not supported at the top of the agency and definitely down at the local level, as Mr. Perkinson describes. That, too, has been my experience.

And there are also other things that I think OPM could reach in and correct across government that they haven't done yet and I am hoping they are going to, and these are issues that I am identifying for Director Springer and will continue to work with her on.

Senator VOINOVICH. Has she asked you for your advice on the things that you think need to be done?

Ms. KELLEY. She has been very open to any issues that NTEU wants to discuss and has brought us issues that she wants our input into, so yes.

Senator VOINOVICH. I just want you to know, I want OPM to be the best managed agency in the Federal Government. Without that, nothing will happen.

Ms. KELLEY. I know that you do——

Senator VOINOVICH. I would really appreciate as much input as possible from you and from AFGE and from the Federal Managers Association to try and really get that input.

Ms. KELLEY. We will do that.

Senator VOINOVICH. Ms. Simon.

Ms. SIMON. Yes, thank you, sir. We have a slightly different relationship with OPM because AFGE represents the employees of OPM, so I have been sitting here thinking about how to answer your question in a politic way. Certainly the employees in the headquarters office have had their lives turned upside down be-

cause OPM has pursued A76 competitions with a vengeance, one after another, one bigger than the next, and so there is tremendous uncertainty about the future and instability and worry and low morale of the rank and file workers there.

Senator VOINOVICH. I wasn't aware that they were doing that.

Ms. SIMON. Yes, sir.

Senator VOINOVICH. Have they matured enough so that the MEO is competitive with the private sector?

Ms. SIMON. Well, one of the problems with A76 is even when the MEO wins, it loses, because invariably, it wins on the basis of a proposed alternative that is less expensive and less expensive invariably means fewer employees and downgrades. And so people are losing their jobs, not as many as would lose their jobs if the MEO didn't win, and having their positions downgraded. So that doesn't make anyone very happy.

We have had relatively little contact and communication at the highest levels with OPM since Ms. Springer took over, which is not to say that it has been hostile, it has just been very little communication. But certainly among the rank and rile employees of OPM, there is a lot of unhappiness over the relentless pace of A76.

Senator VOINOVICH. Thank you. Ms. McGinnis.

Ms. MCGINNIS. I think Linda Springer is a real breath of fresh air. I think she brings to OPM a very practical market and performance-oriented approach and she knows the value of people in government. So it is very balanced. Her progress on a strategic plan and metrics, I think, is commendable. She is not waiting for anything. She is moving ahead. The work that she has begun on career patterns and preferences, thinking ahead to how to recruit and retain and develop the best and brightest workforce of the future, I think is quite commendable, as well.

The role of OPM as a constructive partner to the agencies, I think, does have a way to go, but it is on that path and I think her leadership is terrific. I can't speak to the morale issues, but you can look at that same survey that we have talked about and see where OPM stacks up in terms of morale. So we ought to all take a look at that. I don't think it is at the bottom.

Senator VOINOVICH. The problem that we have is that the GAO report used 2004 employee survey data. Quite frankly, that report showed it wasn't very good. I think that Ms. Springer is trying to remedy that situation. We will be getting more GAO analysis, but I think you would all agree, that OPM has more to do with your lives than any other agency.

I want to thank you very much for being here. Senator Akaka and I are well aware of the fact that nothing will get done this year without unanimous consent in the Senate, as you have observed. So we are going to see if we can't work something out between the two of us on these two pieces of legislation. It we can't, we will see you next year. [Laughter.]

Thank you very much. The hearing is adjourned.

[Whereupon, at 11:14 a.m., the Subcommittee was adjourned.]

APPENDIX

STATEMENT OF THE HONORABLE DAN G. BLAIR
DEPUTY DIRECTOR
OFFICE OF PERSONNEL MANAGEMENT

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

ENHANCING EMPLOYEE PERFORMANCE
A HEARING ON PENDING LEGISLATION

JUNE 29, 2006

Mr. Chairman and Members of the Subcommittee:

Thank you for inviting the Office of Personnel Management (OPM) to testify about the proposed Federal Workforce Performance Appraisal and Management Improvement Act and the proposed Federal Supervisor Training Act. I am pleased to testify on behalf of OPM and our Director Linda Springer.

OPM is pleased to endorse and support S. 3492. We see this legislation as a significant step with respect to Governmentwide human capital reforms – one that will help to ensure that we are able to have a 21st century compensation system for Federal employees. I would be remiss, Mr. Chairman, if I failed to acknowledge your steadfast commitment to improving Federal management policies and practices. Throughout President Bush's Administration, your

support has been essential to the significant changes we have already achieved in the areas of hiring, workforce shaping and restructuring, and pay and leave administration.

As we look to the future and further human capital reforms, we view S. 3492 as laying essential building blocks entirely consistent with the direction future personnel reforms must take. Our mutual attention has turned to Governmentwide improvements in performance management and aligning employee performance with the pay increases they receive. As you know, years of experience with effective pay-for-performance with nearly 100,000 employees has made clear that further experimentation is not needed. What is needed, however, is firm commitment to sound infrastructure and careful implementation that gives appropriate emphasis to improving performance management systems, holding managers accountable for effective performance appraisal, and training them appropriately.

We firmly believe having Congress spell out these requirements by way of statute sends a powerful message to employees and managers and the American public. It also would prevent any future backtracking to less robust performance management systems.

S. 3492 would develop a solid infrastructure by improving Federal performance management in at least three ways. First, the 1978 law that laid out requirements for agencies to appraise employee performance against standards set in advance was enacted in the era that predated the Government Performance and Results Act. That era still focused on positions and processes and paid scant attention to strategic contributions and expected results. It is time to

make the change you propose so that each employee's performance expectations are clearly aligned with relevant agency strategic goals and mission objectives.

Second, both S. 3492 and S. 3584, Senator Akaka's proposed legislation, make clear that effective performance management is first and foremost the responsibility of supervisors and managers. For too long, the burden has rested with the personnel shop to "make it work." It is past time to recognize that performance management is not a personnel function; it is a core function for every supervisor and manager. Your proposals provide for clear accountability by requiring that managers themselves must be appraised on how well they perform their performance management roles.

The third area where both of your proposals focus on improving performance management is in ensuring supervisors and managers are properly trained to carry out that role. If supervisors are going to be held accountable for communicating clear expectations, providing ongoing feedback and coaching employees, and making fair and credible performance assessments, we must provide them appropriate training and development experiences. I recognize that Senator Akaka has had a very strong interest in this specific area as well which is why we are pleased to also be reviewing his proposal to enhance training of supervisors and managers. I would point out that the Administration strongly shares this commitment to training as evidenced in the President's 2007 budget proposal which includes funding to support such training.

OPM is fully committed to ensuring effective training is available. We are prepared to set standards for effective training and to offer such training as part of our comprehensive leadership development programs. That has been the approach OPM has been using as part of the Human Capital Initiative under the President's Management Agenda (PMA).

Through the PMA, agencies have already been redesigning and strengthening their performance management systems to ensure employee performance plans align with organizational goals and focus employees on achieving results. OPM has provided extensive guidance and expects agencies to make distinctions and provide consequences based on performance when evaluating employees, as well as hold managers accountable for appropriately managing the performance appraisal process. Agencies have identified "Beta" or test sites to implement and assess their revised systems, and will complete their performance appraisal cycle at their beta site by September 30, 2006. OPM is monitoring and providing feedback to the agencies on the implementation of their beta sites.

Also noteworthy is the fact that most agencies have already or are in the process of moving away from pass/fail appraisal programs and are implementing new, multi-level programs. Here again, however, adding a clear legislative ban on pass/fail appraisal as your proposal does, would be very valuable.

We are also pleased that S. 3492 sets the direction to move further toward pay-for-performance. We understand concerns among the general workforce about increasing the

linkage between performance ratings and pay adjustments. Mr. Chairman, your strategy to improve the appraisal systems first is key to addressing these concerns.

With respect to the specific pay-for-performance proposals as contained in S. 3492, we agree strongly that creating a basic performance contingency for getting any pay increase is a very reasonable first step. The idea that less than fully successful performers should get pay increases is indefensible. Right now, only the within-grade step increases for General Schedule employees are subject to such a test. The automatic, performance-insensitive January Federal pay increases date back to the days of manual payroll systems when clerks would look up pay rates from published tables. Those days are long gone. We can and do pay people at other than a fixed step rate.

Mr. Chairman, making any pay increase contingent on a fully successful performance rating is just common sense. We owe it to the vast majority of good performers to acknowledge their positive contributions and not treat their underperforming counterparts in identical fashion.

Mr. Chairman, I want to note clearly that your bill includes appropriate and significant safeguards and due process requirements to reassure employees they will be treated fairly. We agree this is an essential element for any pay-for-performance feature.

Mr. Chairman and Senator Akaka, I appreciate this opportunity to speak to your proposals and I am available to answer your questions.

GOVERNMENT MANAGERS COALITION
• FAAMA • FMA • NCSSMA • PMA • SEA •

**TESTIMONY OF DARRYL PERKINSON
ON BEHALF OF
THE GOVERNMENT MANAGERS COALITION**

Before the

**U.S. SENATE HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS COMMITTEE
SUBCOMMITTEE ON THE OVERSIGHT OF GOVERNMENT
MANAGEMENT, THE FEDERAL WORKFORCE AND THE DISTRICT
OF COLUMBIA**

Hearing

**ENHANCING EMPLOYEE PERFORMANCE:
A HEARING ON PENDING LEGISLATION**

June 29, 2006

Thank you Chairman Voinovich, Ranking Member Akaka, and Members of the Subcommittee for allowing the Government Managers Coalition to present its views on enhancing employee performance and specifically the Federal Workforce Performance Appraisal and Management Improvement Act of 2006, S. 3492, and the Federal Supervisor Training Act.

My name is Darryl Perkinson, and I am the President of the Federal Managers Association (FMA). Today I testify not only on behalf of the organization I head, but also as a member of the Government Managers Coalition (GMC). The GMC was founded earlier this year to unify the five major federal executive and management associations—the Federal Aviation Administration Managers Association (FAAMA), the Federal Managers Association (FMA), the National Council of Social Security Management Associations (NCSSMA), the Professional Managers Association (PMA), and the Senior Executives Association (SEA)—in advocacy for common-sense solutions to bolster good government throughout the federal workforce.

Our coalition is a deliberative body, and we only put forth positions that have received the unanimous support of the members of the coalition. When we reach unanimity on a position, the GMC speaks for nearly 200,000 federal supervisors, managers, and executives ranging from career Senior Executives to mid-range GS supervisors.

To date, we have endorsed four broad legislative initiatives to improve employee performance:

- Rewarding federal employees for not abusing sick leave;

- An extension of the probationary period for most new employees to two years;
- Clarity on the status and treatment of managers when subordinates file EEO complaints; and finally,
- Mandatory supervisor training and re-training for those who manage other federal employees.

The GMC endorses these initiatives, which we believe will improve the overall effectiveness of managers to enhance employee performance and produce more results for their agencies. However, a manager cannot be expected to inherently know the best methods of performing their duties. Curricula are needed to educate managers at all levels and across all agencies on how best to manage their staff given their unique environment and how best to use the resources available to them. It is clear to us that this does happen to the degree that it should. Mandatory training is the only way to ensure we are not only hiring the best and brightest, but giving them the tools to do their jobs to the best of their abilities.

For mandatory training to achieve results, we believe there are five critical elements that are essential:

- Every supervisor and manager in the Federal Government must receive mandatory supervisory training within one year of their initial appointment;
- Supervisors and managers should receive updated training every three years after the initial training;
- Training of managers must become a priority within in each Federal Agency and Department;
- A specific authorization of federal funds must be made to underwrite the cost of training that is in addition to money currently allocated to each Agency and Department for personnel costs; and,
- Managers must be afforded participation in processes that arise from constructed feedback and evaluations required of them from this legislation.

The GMC is pleased that this committee recognizes the need for mandatory training programs to be implemented for all supervisors and managers throughout government. Current law (P.L. 108-411) requires agencies to establish a training program for managers on how to manage employees whose performance is unacceptable, how to mentor and improve employee performance and how to accomplish performance appraisals. However, there is no accountability for managers to participate, and when budgets are tight, these discretionary programs are often the first to have their funding cut. This problem is exacerbated by the fact that ongoing personnel reforms require a well-trained, well-versed management team to implement and they challenge supervisors to learn new skill sets. Experience from this ongoing

reform effort has shown that managers must be well trained in advance to meet the challenges of a federal pay system that is moving to "pay for performance".

As stated above, our Coalition supports mandatory training for all supervisors within one year of the initial appointment to a supervisory position, and at least every three years thereafter to meet current and ongoing challenges. The legislation introduced by Chairman Voinovich, the Federal Workforce Performance Appraisal and Management Improvement Act, includes much of the GMC's desired program, providing for training within a year of appointment and every five years thereafter. We would like to thank Chairman Voinovich and his staff for accepting the suggestions by the GMC that the program allow supervisors to receive credits for training so they do not have to re-train upon transferring to a different job within government.

We also commend Ranking Member Akaka for his continued interest and action on this important issue and for including in his legislation, the Federal Supervisor Training Act, an accelerated timetable and noted authorization of funds. The GMC prefers the shorter timeframe, and we would like to offer our support of the Senator's bill.

In these times of strained budgets, training is viewed as a secondary expense and is therefore the first program to meet the chopping block when Congress, the administration or an agency allocates funds. With mandatory training taking the force of law in these bills, Congress and the administration will be obligated to recognize the fundamental requirement to train the federal supervisory and management force. With OPM's new career pattern options, telecommuting, a "blended workforce," and a performance-based work environment, the workforce has become more dynamic and flexible, and training on how to utilize and appraise one's employees is increasingly essential.

Your efforts in drafting this legislation and bringing it to final passage will not achieve the results that you seek unless there is a specific authorization of funds to underwrite the cost of the mandatory training programs. Experience at some federal agencies has shown that training costs are not sustainable. Thus, we strongly urge that your bills be amended to include a section that provides for an annual authorization. We would recommend a period of five to seven years to allow for each Agency and Department to implement the mandatory supervisor training programs.

I will conclude with one final point. Our coalition is excited that Congress is taking the first steps in providing more potent tools to managers, as well as the training required to use them. One additional piece of the puzzle continues to remain missing: the assurance of a reasonable level of participation for managers and supervisors who are subjected to EEO complaints by subordinates, many of which are later found to be frivolous. As it now stands, the proliferation of EEO complaints and the complexity of the rules surrounding whistleblower reprisal cases make managers reluctant to deal effectively and quickly with poor performers and employee misconduct.

The right of an employee to file an EEO complaint or speak out against an unjust practice is very important in the federal workplace. The GMC wholly supports this right. While managers once had the right to be a part of the EEO complaint process, now they are often sidelined by agencies

to the status of a mere witness with no right to see the evidence or to protect themselves during the process.

As the performance appraisal process becomes more rigorous, such as required by the Federal Workforce Performance Appraisal and Management Improvement Act, and pay decisions become dependent on those appraisals, complaints and grievances will proliferate. Therefore, we ask that Congress consider the GMC's Federal Managers Fairness Act, which would assure managers the right to participation during the EEO process, the right to be consulted before a settlement, the right to be told when a case is filed and when it is finished, and consideration for lost benefits resulting from both frivolous EEO and whistleblower complaints. Without empowering federal managers in such a way, you will find some supervisors and managers fearful of rating their employees poorly due to the possibility of retribution in the form of meritless complaints. Fairness for managers in the EEO process along with the mandatory training that is required in both bills that are the subject of this hearing will go a long way in assuring that managers have the tools and the environment to succeed as federal supervisors.

Thank you for the opportunity to present our views. We would like to thank you and your staffs for including us in discussions regarding the drafts of the legislation and look forward to continuing to work with them and the Committee to produce a bill that will improve the federal workforce. I will be pleased to answer any questions you may have.

STATEMENT OF COLLEEN M. KELLEY
NATIONAL PRESIDENT
NATIONAL TREASURY EMPLOYEES UNION

ON

ENHANCING EMPLOYEE PERFORMANCE:

The Federal Workforce Performance Appraisal and Management Improvement Act

AND THE

Federal Supervisor Training Act

PRESENTED TO

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANANGEMENT AND THE FEDERAL WORKFORCE
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
JUNE 29, 2006

STATEMENT OF COLLEEN M. KELLEY
NATIONAL PRESIDENT
NATIONAL TREASURY EMPLOYEES UNION
ON
ENHANCING EMPLOYEE PERFORMANCE:
PRESENTED TO

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANANGEMENT AND THE FEDERAL WORKFORCE
UNITED STATES SENATE
JUNE 29, 2006

Chairman Voinovich, Ranking Member Akaka, members of the subcommittee, I appreciate the opportunity to testify today at this important hearing on enhancing employee performance.

SUPERVISOR TRAINING

Let me first address the Akaka bill on supervisor training and section 3 of S. 3492, which deals with the same issue. Section 3 mandates the establishment of a training program for supervisors by each agency, in consultation with the Office of Personnel Management (OPM). The training program would have two focuses. The first is a comprehensive management succession program designed to help develop managers. The second is a supervisor training program aimed at developing supervisor skills in communicating to employees on performance expectation, conducting employee performance evaluations, mentoring employees, improving their performance and dealing with poor performers. The bill requires this training for covered supervisors during their first year in their positions and once every five years thereafter.

Supervisor training, accountability and development are pressing concerns for human capital management in the federal sector. Mr. Chairman, NTEU appreciates your recognition of the need for supervisor training by the inclusion of this section in your bill.
NTEU also commends Senator Daniel Akaka for introducing the Federal Supervisor Training Act. We believe that the Akaka bill expands and develops in a very positive way the basic mandate for supervisor training in S. 3492. Like S. 3492, the Akaka bill would establish and authorize funding for new and necessary training programs for supervisors and managers of federal employees. These training programs would be mandatory and based on competency standards set by agencies under the guidance of the Office of Personnel Management (OPM).

NTEU believes the Akaka bill adds several essential features to a supervisor training initiative. First, it mandates coverage of a wider range of managers. Second, it provides a more detailed description of the type of training to be required. It specifically requires that training be interactive and instructor based. For supervisor training to be meaningful, it must be more than simply the review of written material. Training delivered by training professionals in a situation –

either face to face or internet based – which allows dialogue, questioning and interaction between student and teacher is an indispensable feature of an effective program.

Further, the Akaka bill has great value as it requires more than simply training in the supervision of employees but in working with employees, communicating with them, and discussing their progress. A good manager needs to do more than correctly evaluate an employee. A good manager needs to know how to develop an ability to help his or her subordinates become top performers and be able to communicate with and hear from employees. A well trained manager knows how to motivate employees, build teamwork, and be flexible rather than rigid in workplace situations.

Absolutely essential is the requirement in the Akaka bill to include supervisor training on prohibited personnel practices, particularly violations of statutorily prohibited discriminatory actions and whistleblower activities. A key way to lessen discrimination in the federal workplace and ensure workplace fairness is for proper supervisor training so that they fully understand the duties and obligations they have. NTEU believes, however, that this section needs to be even further expanded and defined. It must be explicit that this training encompass the full range of prohibited personnel practices, unfair labor practices and all violations of the merit system.

The Akaka bill also adds another important feature which is missing in S. 3492. It includes the promulgation of management performance standards. S. 3492 mandates training and increases responsibility over employee pay but does not include any standards or methods of accountability. Supervisor training will lose its full value if there are not standards to measure it by. NTEU believes that by including management competency standards, we have the ability to move toward accountability.

Finally, NTEU is concerned as to whether this provision will be adequately funded. Sadly, it is too often the case that when agency budgets become tight, training is the first to go. Cutting other pressing agency needs is not the answer. NTEU would prefer that this legislation clarify exactly where the resources will come from to finance this important initiative. But, the compelling case for supervisor training is clear.

DENIAL OF ANNUAL PAY INCREASES

With regard to S. 3492, much of the section dealing with performance appraisal systems, is already in place. For example, linking the system with the strategic goals and annual performance plan of the agency is a basic tenet of the Government Performance and Results Act. (GPRA). While the bill calls for a "written performance appraisal annually," OPM regulations currently state that "as soon as practicable after the end of the appraisal period, a written, or otherwise recorded, rating of record shall be given to each employee." (5 CFR 430.208(a)). Current regulations also state that the appraisal period "generally shall be 12 months so that employees are provided a rating of record on an annual basis." (5 CFR 430.206(a)(2)) We have no objection to the language in S. 3492, which makes clear that a written performance appraisal is required annually.

The major change in this section adds the term "compensating" to the list of uses for which the performance appraisals can be used. Current law states that agencies shall use performance appraisals as a basis for training, rewarding, reassigning, promoting, reducing in grade, retaining, and removing employees (5 USC 4302(a)(3)). The purpose of the inclusion of "compensating" in the list is made clear in section 4 of the bill, which states that an employee whose summary rating of performance for the most recently completed appraisal period is below fully successful, may not receive annual across the board or locality increases. This provision will apply to wage grade as well as general schedule employees.

Under current law an employee who has received an unacceptable performance evaluation may not receive a within grade step increase or grade promotion. These increases are tied to performance and it is entirely appropriate that they be withheld if an employee's performance is less than acceptable (5 USC 5335(a)(3)(B)). The annual across the board and locality increases were created in the Federal Employees Pay Comparability Act (FEPCA) with the purpose of achieving comparable pay between federal employees and their counterparts in the private sector. These increases are tied to the position, not the individual in the position, and therefore, withholding these increases based on the performance of the individual in the position completely drops the goal of comparability, which has been the goal of federal pay for decades.

Before the enactment of FEPCA, the goal was still comparability with the private sector. Under FEPCA, locality adjustments were introduced to make comparability more sensitive to local labor markets. Before FEPCA, GS employees all received the same annual pay increase, regardless of the cost of labor in their locality. While Administrations and Congresses since the enactment of FEPCA have not implemented the law as intended, NTEU supported the locality provisions in the law to make increases more reflective of local markets. If Congress wants to drop the goal of comparability with the private sector as the basis of the federal pay system, I think that should be noted and debated. That is clearly what the result of this proposal will be and NTEU opposes that.

DEALING WITH POOR PERFORMANCE

Denying across the board and locality increases to employees with less than acceptable performance ratings will affect a very, very small number of federal employees, but still should not be done. According to a GAO report issued in June of last year, "Poor Performers in the Federal Workplace," OPM's Central Personnel Data File (CPDF) showed that in fiscal year 2003, 0.3 percent of employees rated that year received an unacceptable performance rating (GAO-05-812R). While other studies have shown that perceptions of supervisors or employees of the number of poor performers may be somewhat higher, the 0.3% reflects the actual number of documented poor performers. This extremely small number should not drive major, substantive changes in the basic tenets of our pay system.

I believe that there are many factors in place that keep the number of poor performers small. First, the federal hiring process is rigorous and managers are good at hiring people who will be good at their jobs. Second, no appeal rights attach to adverse actions, including dismissal of employees, until after a probationary period, which is usually one year. Managers are also good at determining within the course of that one year probationary period those employees who

are not at, and likely will not achieve, an acceptable level of performance and dealing with them at that time.

The 2005 GAO report considered the issue of dealing with poor performers, stating:

> Various studies, reports, and surveys of federal supervisors and employees we reviewed have identified various impediments to dealing with poor performance, including issues related to (1) time and complexity of the processes; (2) lack of training in performance management; and (3) communication, including the dislike of confrontation. (GAO-05-812R, p.3)

None of the top impediments cited include lack of sufficient disincentives for poor performance, which is what the proposal of denying across the board and locality incentives would amount to. In fact, many disincentives already exist, including reduction in grade and removal. Rather, the impediments highlight managers' reluctance to engage in the processes that will have an impact on performance, rather than the processes themselves. I believe dealing with that reluctance is the key to improving performance as well as dealing with poor performers.

SENIOR LEVEL PAY INCREASES

While the portions of S. 3492 that deal with rank and file federal employees would deny them annual across the board and locality increases unless a new performance based standard is achieved, the portions that deal with Senior Level and Scientific and Professional employees would provide for increased pay totally unrelated to individual performance. I was quite surprised to see this and believe it is not a sound message to be sending rank and file employees who are being told that new performance appraisal systems will be fair and based only on performance.

Under current law (5 USC 5376(b)(1)(B) Senior Level and Scientific and Professional employees may receive basic pay up to Level IV of the Executive Schedule ($143,000). Under section 6 of S. 3492 these employees could receive basic pay up to Level II of the Executive Schedule ($165,200, or $22,000 increase) if they work for agencies that have been certified by OPM as making meaningful distinctions in performance. Furthermore, these employees could receive basic pay up to Level III ($152,000, or $11,000 increase) even in agencies whose performance management systems have not been certified by OPM. The bill also makes clear that these employees will not lose pay if they move from a certified to a non-certified agency.

These increases for Senior Level and Scientific and Professional employees are not tied to any new individual performance standards the way the proposed denial of pay is tied to individual performance for rank and file employees. NTEU believes this is exactly the wrong signal to be sending to federal employees who are extremely concerned that the buzz words "pay for performance" will end up meaning less pay for them. There is great concern that changes to the General Schedule and other pay systems that have been set by statute and refined through regulations and review will not be fair or transparent, especially to those at the lower end of the pay scales. To increase pay for the highest paid employees, regardless of their performance, in the same piece of legislation that would for the first time allow for cutting certain pay based on

performance for everyone else will only increase the already deep skepticism that a new "pay for performance" system will be fair.

EFFECTIVE DATES OF PROPOSALS

Section 8 of S. 3492 will require all agencies to have a performance appraisal system designed and to OPM for certification by July 1, 2007. Based on the problems that the Department of Homeland Security and the Department of Defense have been having in designing new performance systems, this seems like a very short time period. It also is clear that such a deadline will allow little opportunity to review the elements and application of the DHS and DOD systems, which I believe would be very valuable for other agencies.

The effective date of the pay increases for the Senior Level employees is 180 days after enactment, well before most of the other sections of the bill will be in place. This leaves the unfortunate impression that providing the highest paid employees with pay increases unrelated to performance is the most pressing issue in the bill.

Thank you for this opportunity to provide NTEU's views on these important issues. I would be happy to answer any questions you may have.

STATEMENT BY

JACQUELINE SIMON
PUBLIC POLICY DIRECTOR
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

BEFORE

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

SENATE COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS

REGARDING

ENHANCING EMPLOYEE PERFORMANCE:
A HEARING ON PENDING LEGISLATION

ON

JUNE 29, 2006

Mr. Chairman and Members of the Committee: My name is Jacqueline Simon, and I am the Public Policy Director of the American Federation of Government Employees, AFL-CIO (AFGE). On behalf of the more than 600,000 federal and District of Columbia employees our union represents, I thank you for the opportunity to testify today.

You have asked for AFGE's views on two legislative proposals: The Federal Workforce Performance Appraisal and Management Improvement Act, and the Federal Supervisor Training Act. AFGE appreciates the time and attention that have gone into the development of these proposals, as well as the evident intention to improve the functioning of federal agencies and the ability of federal managers to perform their jobs competently.

The Federal Workforce Performance Appraisal and Management Improvement Act

This legislation purports to improve "performance management" and make annual general salary increases for federal employees covered by the General Schedule and the Federal Employees Pay Comparability Act (FEPCA) contingent on a positive performance appraisal.

Pay for performance is a fad that is on the wane in the private sector but still seems to generate much enthusiasm in some management circles in the federal sector. An interesting new characterization can be found in a draft working paper

prepared by several professors at Harvard's Kennedy School of Government[1] that describes the rush toward pay for performance in the federal sector as a "split the baby" compromise strategy to allow the federal government to mirror the private sector's pay "decompression" without spending more money. In this context, "decompression" is a reference to the expanding gap between the highest and the lowest levels of the salary range in the private sector. The professors cite the fact that while pay differentials between professional and executive salaries on the one hand, and the wages and salaries of "less skilled" administrative and technical jobs on the other have become enormous in the private sector over the past 25 years, differentials between the top and the bottom of the federal pay scale have remained stable due to the structure of the General Schedule and the practice of adjusting the whole schedule annually by the same percentage. The Kennedy School faculty calls federal sector pay for performance "a familiar gambit for avoiding the difficult political and budgetary discussions" about how to raise pay at the top without spending more taxpayer dollars.

The proposal in S. 3492 takes a new turn. Heretofore, pay for performance proposals that have been developed for demonstration projects and specific agencies have been promoted as opportunities to reward high performers and

[1] http://www.napawash.org/pc_human_resources/transitions_present/nye.pdf, "Can We Improve Public Service in the Federal Government? *Or* Public Service for the Information Age", by Elaine Kamarck, Steve Kelman and Joseph S. Nye, Jr., John F. Kennedy School of Government, Harvard University.

help the federal government recruit and retain the best "talent" possible. Although the schemes invariably include a punitive element, that element is usually barely mentioned. The emphasis is always on the positive, the promise of higher pay for employees and higher performance for agencies. Yet this bill provides virtually nothing in the way of reward. The emphasis is on the negative, the threat of punishment for "poor performance." Implicitly, the legislation assumes that motivating individual employees to improve their performance and align their efforts with agency missions is not a matter of offering the prospect of higher than normal salary adjustments. Rather, it assumes that fear of punishment is the best motivator. The message is: improve performance and better align your efforts with agency missions, *or else*.

S.3492 takes an emphatic position on the proverbial "which works better, the carrot or the stick?" This is all stick and no carrot.

This is not to imply that AFGE would be more supportive of a balanced carrot and stick pay for performance scheme. AFGE opposes pay for performance systems in the federal government because they are ineffective at motivating improved performance, they are inherently inappropriate for the public sector, they are costly and wasteful of taxpayer money and agency resources that are sorely needed in so many other areas. In short, pay for performance schemes are impossible to implement in a way that is fair, equitable, efficient, or effective.

Additionally, it appears that approximately one third of the pay section of the legislation duplicates existing law, except to the extent that it proposes to redefine "pay reduction" and in the process take away some employee rights. In response to a negative performance appraisal, S. 3492 would allow federal supervisors, managers, and political appointees to deny to individual federal employees:

1) The annual salary adjustment based upon the Employment Cost Index (ECI) and,

2) the annual salary adjustment based upon the Bureau of Labor Statistics' (BLS) National Compensation Survey (NCS) which the Federal Salary Council and the President's Pay Agent utilize to measure pay gaps in local labor markets between private and federal salaries, and

3) the within-grade salary adjustments that federal employees are eligible for at periodic intervals that reflect increases in job performance based upon experience, accumulation of skill, institutional knowledge, range of abilities, and commitment. This last also serves as an incentive for seasoned employees to provide the agency with continuity and the benefit of their experience, an invaluable component of agency success in the context of turnover of political appointees.

The proposal in S.3492 would, in the jargon of pay for performance, put all three of these components of General Schedule salary adjustment "at risk," whereas, now, only number three is "at risk." That is, although the federal pay and classification systems have been carefully designed to balance market comparability and individual performance and contribution, this bill proposes to transform the Federal Employee Pay Comparability Act's market-based components of GS pay into discretionary "performance-based" components, leaving very little to the market and the principle of market comparability. And if the system described in S.3492 were to be established, no one would be surprised to hear it criticized later for being inadequately market sensitive.

In the past five years, the campaign to impugn the General Schedule and create a sense that replacing it is an urgent need for our nation has been unceasing. It has included an Office of Personnel Management (OPM) White Paper, General Accounting Office (GAO) condemnation and high-risk designation, blue-ribbon commissions' blessings upon the manufactured conventional wisdom, conferences by interested parties parading as disinterested experts touting "studies" that demonstrate the fatal shortcomings of the General Schedule and glories that await their own design for a new federal pay system. Even the MSPB has published a study on pay for performance[2], although its tone and content were notably sober in acknowledging the absolute necessity of having

[2] "Designing an Effective Pay for Performance Compensation System: A Report to the President and the Congress of the United States by the U.S. Merit Systems Protection Board, Office of Policy and Evaluation." January, 2006.

several highly unlikely conditions prevail if pay for performance is to be anything short of a disaster in the federal sector. For example, the MSPB study cited the following seven "requirements" for successful implementation of pay or performance:

1. A culture that supports pay for performance;
2. A rigorous performance evaluation system;
3. Effective and fair supervisors;
4. Appropriate training for supervisors and employees;
5. Adequate funding;
6. A system of checks and balances to ensure fairness; and
7. Ongoing system evaluation.[3]

Although S. 3492 is focused on number four, it does not address the development of a *positive* context for a culture to support pay for performance, meaningful employee input into the development of a performance evaluation system, ensuring supervisors are fair or effective, adequate funding, a fair system of checks and balances, or ongoing system evaluation.

In particular, the MSPB raises an issue often ignored in discussions of pay for performance where advocates assume that the virtues of such a system should be self-evident. But these virtues are self-evident only to those with no

[3] Ibid. page 37.

experience of the negative potential of supervisory discretion on pay. A supervisor may intend to be fair, but, the MSPB report warns:

> Given the growth of diversity in the workplace, communicating with others of a different race or gender has become a common issue. Unfortunately, supervisors may feel uncomfortable providing constructive criticism to employees who are visibly or culturally unlike them – perhaps because they fear that a discrimination complaint might be lodged against them…Supervisors are more likely to communicate well with the employees they view as most like themselves. This open exchange of information and feedback may result in improved performance by the similar employees and a greater likelihood that the supervisor will be aware of their accomplishments…In response, the supervisor rates the "in-group employees higher than the "out-group" employees."[4]

The manufacturing of an apparent consensus on the need to replace the General Schedule with pay for performance has been impressive. Replacing the General Schedule, according to the ideological campaign, is the answer to the government's self-inflicted human capital crisis, the reason the Bush Administration has had to tell agencies to privatize 850,000 federal jobs, and perhaps most absurdly, the best way to make sure the government succeeds in preventing further terrorist attacks.

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[4] Ibid. page 32.

Some of the campaign's signature slogans include the charge that the General Schedule is a system that rewards only "the passage of time" rather than performance, and that it is an anachronism designed for a late 19th and early 20th century government populated mostly by clerks and typists rather than the "information based" government of today. Neither charge is true but repetition breeds plausibility, and today they have at least the ring of truth. After all, the General Schedule does provide financial recognition for experience gained over time, and the federal government has had a pay system since the late 19th century, so the slogans aren't outright lies. Nor is it entirely false to claim that there are some "poor performers" among the 1.8 million civilian federal employees. However, the notion that pay for performance is what is necessary to turn poor performers into better performers, rid the entire federal government of underperformers, is questionable at best.

From federal employees' perspective, pay for performance advocates have too often tried to limit the discussion to whether a fantasized, perfect model is preferable to a much more easily-maligned real system. To make sure that the existing pay system is not mischaracterized, it is worthwhile to try to provide the poor General Schedule with an accurate description, so that proposed alternatives are not considered or evaluated against an easily derided "straw dog."

The version of the General Schedule that is relevant is the one that was established as a result of the enactment of the bipartisan Federal Employees Pay Comparability Act in 1990. Despite the insistence of some anti-General Schedule ideologues who claim that it is an aged and inflexible historical relic untouched by history, the fact is that the General Schedule has been modified numerous times, in some cases quite fundamentally, including through last year's passage of the Workforce Flexibility Act which altered bonus authority and made several profound changes in pay administration practices. However, FEPCA's distinguishing feature is the locality pay system, which has had just over a decade of experience, since its implementation began only in 1994 after passage in 1992 of technical and conforming amendments to FEPCA that established both locality pay and ECI-based annual pay adjustments.

FEPCA introduced panoply of pay flexibilities into the allegedly rigid and never-changing General Schedule:

- special pay rates for certain occupations
- critical pay authority
- recruitment and retention flexibilities that allow hiring above the minimum step of any grade
- paying recruitment or relocation bonuses (altered last year to as much as 100% of pay over four years)

- paying retention bonuses of up to 25% of basic pay (altered last year to as much as 100% of pay over four years)
- paying travel and transportation expenses for new job candidates and new hires
- allowing new hires up to two weeks advance pay as a recruitment incentive
- allowing time off incentive awards
- paying cash awards for performance
- paying supervisory differentials to GS supervisors whose salaries were less than certain subordinates covered by non-GS pay systems
- waiver of dual compensation restrictions
- changes to Law Enforcement pay
- special occupational pay systems
- Pay flexibilities available to Title 5 health care positions, and more.

In addition, FEPCA retained agencies' authority for quality step increases, which allow managers to reward extraordinary performance with increases in base salary that continue to pay dividends throughout a career.

The basic structure of the General Schedule is a 15-grade matrix with ten steps per grade. Movement within a grade or between grades depends upon the satisfactory performance of job duties and assignments over time. That is, each year for the first three years, and then every three years thereafter up to the tenth step, employees become eligible for small performance-based raises. If an

employee is found to be especially good, managers have the authority to award "quality step increases" as an additional incentive. If an employee is found to be performing below expectations, the supervisor can withhold the step increase.

The federal position classification system, which is separate and apart from the General Schedule and would have to either continue or be altered separately and in addition to any alteration in the General Schedule, determines the starting salary and salary potential of any federal job. As such, a job classification determines not only initial placement of an individual and his or her job within the General Schedule matrix, classification determines the standards against which individual worker's performance will be measured when opportunities for movement between steps or grades arise. *And most important, the classification system is based upon the concept of "equal pay for substantially equal work", which goes a long way toward preventing federal pay discrimination on the basis of race, ethnicity, or gender.*

The introduction of numerous pay flexibilities into the General Schedule under FEPCA was only one part of the pay reform the legislation was supposed to effect. It was recognized by President George Bush, our 41st President, the Congress, and federal employee unions that federal salaries in general lagged behind those in the private sector by substantial amounts, although these amounts varied by metropolitan area. FEPCA instructed the BLS to collect data so that the size of the federal-non-federal pay gap could be measured, and

closed gradually to within 90% of comparability over 10 years. To close the pay gap, federal salary adjustments would have two components: a nationwide, across-the-board adjustment based upon the Employment Cost Index (ECI) that would prevent the overall gap from growing, and a locality-by-locality component that would address the various gaps that prevailed in specific labor markets.

Unfortunately, neither the Clinton nor the George W. Bush administration has been willing to comply with FEPCA, and although some small progress has been made, on average federal salaries continue to lag private sector salaries by about 14%. The Clinton administration cited, variously, budget difficulties and undisclosed "methodological" objections as its reasons for failing to provide the salary adjustments called for under FEPCA. The current administration ignores the system altogether, except to call for its elimination. Meanwhile, the coming retirement wave, which was fully anticipated in 1990, has by some accounts turned into a full-fledged human capital crisis due to highly irresponsible and untargeted downsizing and privatization in the intervening years, as well as a stubborn refusal to implement the locality pay system which was designed to improve recruitment and retention of the next generation of federal employees.

The Treatment of Denial of Pay Raises under S.3492

In addition to the fact that AFGE strongly opposes transforming all market-based salary adjustments for GS workers into performance-based raises, we are also extremely troubled by the legislation's treatment of the denial of an annual pay

increase. The bill creates the fiction that the denial does not constitute a reduction in pay, and therefore does not trigger the procedures applicable to an adverse action. Rather, it treats this *de facto* pay reduction as though it were the equivalent of the denial of a within grade increase. The differences between the two are significant.

Under 5 U.S.C. § 5335(c), which refers to the denial of within grade increases, a federal employee is entitled to "prompt written notice" *after* the agency has made its determination. However, under 5 U.S.C. § 7513 (b), which refers to adverse actions, including a reduction in salary, the employee is entitled to "at least 30 days' advance written notice" *before* the agency has taken action against the employee.

Under 5 U.S.C. § 5335(c) a federal employee has a right to reconsideration of management's decision "under uniform procedures" established by OPM. However, under 5 U.S.C. § 7513 (b), the statute provides explicit and specific procedural rights. For example, in the context of an adverse action, a federal employee has "a reasonable time, but not less than 7 days" *before* the agency has taken action against the employee to present an answer or an appeal to the proposed action. This answer can include oral and written responses, affidavits, and documentary evidence. Additionally, the employee has the right to be represented by an attorney or other representative. The employee also has a right to a written decision and specific reasons supporting the decision. None of

these rights are included under 5 U.S.C. § 5335(c), and thus none would be available to an employee denied either a nationwide ECI-based or locality-based salary adjustment if S. 3492 were enacted.

Being able to challenge a reduction in pay before it has taken effect, and before a final decision has been made, is a crucial employee right that S.3492 would eliminate. It is insupportable to suggest that a supervisor's action that results in an effective reduction in pay is not a reduction in pay or an adverse action.

If the proposals in S.3492 were the only thing that had happened to federal employees, and we knew that it was an end in itself, it would be one thing. But after five years of having the Bush administration take away collective bargaining and appeal rights from the two largest departments, and knowing of their desire to spread this bad system government-wide through the Working for America Act, even after two negative court decisions, AFGE cannot support even a modified version of S. 3492.

During the same period when federal employees have had to try to fend off the administration's efforts to take away their collective bargaining and appeal rights and privatize their jobs, they have also had to put up with skyrocketing health insurance premiums, and an Office of Personnel Management that either cannot or will not engage in serious negotiations with insurance companies to keep a lid on their greedy behavior, and whose focus in regard to health insurance has

been to attempt to shift even more costs on to employees and retirees. Now, there is a performance problem that needs attention.

In the meantime, overall federal pay continues to lag behind the private sector and state and local governments by 14% on average. If we start making the annual pay raise optional, it will only lay the foundation for reducing the raises even further in the future, thereby punishing the over 95% of federal employees who by all accounts are doing a good job.

Contrary to what some pay for performance advocates have suggested, federal employees do not lie awake at night hoping that their supervisor will withhold the annual pay raise from a less-than-stellar coworker. When they're not worrying about their lengthy and increasingly expensive commutes, the rising cost of health insurance, and whether their jobs are going to be contracted out, chances are good that they are worrying about how to keep up with the pace at work, where they are continually expected to "do more with less" and do so without gratitude or recognition.

On the rare moments when they might think about poor performers in their workplace, what they do want is for their supervisor to take appropriate action to correct the behavior of the poor performer. It is undoubtedly the case that sometimes people are poor performers because they are lazy or have a negative attitude. For those employees, the supervisor should take the action that is in

current law: put the employee under a performance improvement period, and then take disciplinary action if that doesn't succeed.

Often, however, people are poor performers because they truly do not understand how to do their work, or they think they do, but need additional training and attention from their boss. They may be in the wrong job for their skills. For those employees, withholding the annual pay raise will only serve as intimidation and a disincentive to ask for additional help. It won't help get the work done.

This legislation, if enacted, will not achieve the goal of its sponsor: to weed out the poor performer. The only thing that does work in that context is disciplinary action in the first example, or additional training and attention in the second.

The Federal Supervisor Training Act of 2006

In contrast to S.3492, the proposed Supervisor Training Act is focused on positive strategies that make sure federal managers receive adequate, high quality training designed to teach them how to help all federal employees improve their performance. In addition, the proposal explicitly addresses the content of supervisor training, and directs the training program to focus on "developing objectives needed for performance plans *with* (emphasis added) employees, communicating performance evaluations to employees, discussion

performance progress with employees…mentoring and motivating employees and improving employee performance and productivity."

In addition, the bill requires that federal supervisors learn strategies for "effectively managing employees with unacceptable performance and otherwise carrying out the duties or responsibilities of a supervisor." Supervisors would learn both what constitutes a prohibited personnel practice and how to enforce employee rights. It even makes use of what pay for performance advocates love to hate – experience. The bill establishes a program where "experienced supervisors mentor new supervisors" by helping them with such important managerial skills as "communication, critical thinking, responsibility, flexibility, motivating employees, and teamwork…" In the context of political denunciations of the current system's emphasis on longevity, it is refreshing to see a legislative proposal that values the benefits of tenure and experience in the transmission of knowledge and skill.

AFGE supports this approach to elevating the role of performance management in a federal supervisor's responsibilities. It recognizes that disappointing performance by an employee is a management responsibility. While an employee surely has a responsibility to perform to the best of her ability, no one should underestimate the role that operations managers play in facilitating that outcome.

This concludes my statement. I would be happy to answer any questions Members of the Committee may have.

Testimony of Patricia McGinnis, President and CEO, The Council for Excellence in Government

Before

Subcommittee on Oversight of Government Management,
the Federal Workforce and the District of Columbia
U.S. Senate

September 29, 2006

Thank you Mr. Chairman, Senator Akaka and members of the subcommittee, for inviting me to discuss "Enhancing Employee Performance" in the federal government and your legislative proposals, The Federal Workforce Performance Appraisal and Management Improvement Act and the Federal Supervisor Training Act, both of which call for positive steps toward performance-oriented leadership and management.

I would like to compliment Senator Voinovich and Senator Akaka for your constructive bipartisan effort to provide the incentives, resources, tools and the management and accountability framework for federal workers to reach their potential to produce important results for the people they serve.

As you know, the Council for Excellence in Government is a non-profit, non-partisan organization that focuses on improving the performance of government at all levels, building public-private partnerships and engaging the public to improve government results and accountability. We at the Council share your vision of a collaborative, high performing federal workforce. As you well know, in the coming decade, the shape and composition of the federal workforce will change dramatically as 60 percent of federal employees and 90 percent of the Senior Executives become eligible to retire. We have referred to this as the "perfect storm" while OPM Director Linda Springer, calls it a "retirement tsunami."

Whatever the metaphor, this presents a significant challenge to create a leadership pipeline by recruiting and developing future managers and a new generation of public servants. This unprecedented workforce transition also provides a unique opportunity to recruit and develop leaders who will be public entrepreneurs, motivational managers and accountable stewards of the public interest.

To address these pressing issues, the Council, in partnership with the Washington Post, has reached out to engage a variety of perspectives in a series of discussions entitled "Taking the Leap: Innovation and Results through a New Public Service." These included two historic sessions with AFGE President, John Gage, OMB Deputy Director, Clay Johnson, NTEU President, Colleen Kelley and Comptroller General, David Walker, together in public as one panel for the first time, sharing their visions for public service and discussing specific strategies to achieve one consistent vision for the future. When we met, each of them described a vision of what the federal workforce and workplace should be in 10 years, beyond current legislation or budget cycles, current litigation, or anything on the table now. What we heard reflected a strong commitment to the value of public service in order to achieve public priorities and a great deal of agreement on what that would look like.

John Gage talked about "a rebirth of the service culture in the federal government—more collaboration, more choice and less of an adversarial relationship between employees and management."

Clay Johnson said he would like to see "a culture where getting better is just what we do—getting better personally, growing professionally, programs getting better." Civilian employees would get a lot more respect and appreciation; the public would be able to

identify tangible returns from their tax dollars and what federal employees are doing for them. He also noted that federal managers are not as good as they need to be.

Colleen Kelley described a workforce that is valued, respected, recognized as having expertise and answers to how to serve taxpayers better—employees who would be provided the resources to be successful in their missions. They would be able to do a better job, smarter, and at better cost and efficiency. Public servants would also be recognized when things change for the better.

David Walker talked about a "rebirth of public service, where we are hiring the best and brightest to government as the employer of choice to work in high performing agencies to meet the challenges we face in education, healthcare, energy, the environment, and a whole range of other areas." He envisioned more mobility in and out of government and more stability at the top.

The consensus on the future vision falls apart when these leaders get into the details of how to get there. Lack of trust and lack of ownership of promising solutions are roadblocks to meaningful reform. John Gage expressed deep cynicism about "cronyism and patronage" in performance appraisals. Colleen Kelley called for a two-way conversation between management and employees. Clay Johnson seemed to agree that lack of trust is a problem when he said, "the tone is wrong, the tone is bad." "But the key," he said, "is to focus on improving the performance of agencies and employees." David Walker added that "the current GS system is not market-based; it is not skills, knowledge and performance-oriented and it does not result in equal pay for work of equal value over time." At a subsequent session, Linda Springer talked about performance in the context of the challenge to recruit, engage and manage a new wave of employees who want more flexible work

arrangements, greater mobility, and different kinds of training. Such new patterns of work will certainly require clarity about performance goals and expectations, as well as regular communication about progress and areas for improvement.

Chairman Voinovich also joined us at a later session where he noted that when it comes to our nation's business, "people make the difference" and announced that he would influence legislation to ensure that every federal employee receives a written appraisal of performance against goals that are aligned with agency goals and developed with employee input; that the appraisals are used to make decisions about training, promotions, terminations, new assignments and rewards. Pay increases and promotions would no longer be required for employees who are not rated as successful. OPM would offer technical assistance and managers would be trained to clarify expectations, assess performance and provide constructive feedback to employees. That legislation is the Federal Workforce Performance Appraisal and Management Improvement Act we are discussing today.

It is a constructive step towards creating the performance culture that federal workers want and the public expects. According to the 2004 Federal Human Capital Survey of federal employees, the five most positive aspects of government service are the mission, the benefits (family leave and paid vacation time), information networks, teamwork and the quality of the work. The five most negative aspects represent the "to do" list: base personnel decision on merit, recognize differences in performance in a meaningful way, deal with poor performers, provide opportunities for employees to get better jobs, and improve certain benefits (child care, telecommuting, flexible spending accounts, long-term care and work/life programs). The survey also includes a comparison between employees in government and the private sector. The most significant differences (more than 10 percentage points)

comprise several items to add to the "to do" list for government: the biggest difference was in the level of satisfaction with training, followed by the level of satisfaction with information received from management, and "how good a job my supervisor is doing." One of the Council's partners, the Gallup Organization, has an enormous database of employee survey spanning many years in the private sector and government. Analysis of more than 4.8 million responses has led to the insight that employee engagement is the most significant determinant of performance and productivity. At a minimum, to be productive, employees need to know what is expected of them, have the information and tools to do a good job, and have the opportunity to use their strength to do what they do well everyday. At the top of the engagement scale are employees who also have opportunities to learn and grow and whose supervisors communicate with them regularly about how they are doing, who recognize good work and provide opportunities for them to develop and improve their performance.

These findings, which are consistent with the government-wide Human Capital Survey, hone in on specific conditions that can be changed to attract and retain talented people and to raise the level of performance by individuals, teams and whole organizations.

Senator Akaka's bill, the Federal Supervisor Training Act, addresses training of managers by requiring management effectiveness standards and mandatory training for all supervisors.. As you know, the investment in leadership development and training in the private sector is far greater than in government – nearly twice as much in the financial sector, followed by services, transportation, health care, then government and at the bottom – wholesale and retail trade. The return on this investment by business is better performance and increased productivity. Not only is the level of investment important, but training should

also be engaging, actionable, realistic and tailored to provide feedback, coaching and opportunities for improvement.

Both legislative proposals we are discussing today represent constructive incremental steps toward the high-performing, mission-based and accountable public service that we all want. What is missing in this conversation is the level of trust between political appointees and civil servants, and unfortunately, also between the American people and the government. Trust cannot be legislated, but it can be developed on the basis of shared goals, honest communications and willingness to try new approaches, measure results, build on success, address and learn from failure – all in the interest of doing the important work of government well.

We at the Council would like to see movement, such as the incremental steps proposed in this both legislative proposals and also a broader, collaborative strategy that addresses not only performance and pay but also the career patterns and preferences of current federal employees and the "best and brightest" who we want to recruit to federal service in the future.

Thank you, Mr. Chairman, for your leadership and for the opportunity to participate in this important discussion. We at the Council for Excellence in Government are ready to help in any way we can to build the high performing federal workforce that the future of all Americans depends on.

Post-Hearing Questions for the Record
Submitted to Dan Blair, Deputy Director
Office of Personnel Management

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

"Enhancing Employee Performance: A Hearing on Pending Legislation"

June 29, 2006

Senator George V. Voinovich

1. **The Office of Personnel Management has been working with agencies through the President's Management Agenda to improve performance management. I support OPM's efforts and believe in the long term they will improve government. Why have agencies not been focused on strong performance management prior to the President's Management Agenda?**

   ANSWER: In 1995, revised performance management regulations allowed agencies to establish "Pass/Fail" systems. At that time, a primary focus of performance management became employee development and providing constructive feedback to employees, rather than making distinctions in levels of performance. Unfortunately, there was no sustained assessment of the performance management process. The President's Management Agenda (PMA) initiative brought performance management to the forefront of human capital initiatives, requiring elimination of pass/fail programs, alignment with organizational goals, and a focus on results. We continue to see improvements in agency performance management systems.

   Do you believe the legislation I introduced will assist and strengthen OPM's efforts?

   ANSWER: Yes. Even though the Office of Personnel Management (OPM) is having success through the PMA at getting agencies to improve their performance management systems, legislation requiring the performance management principles we have been promoting, such as alignment and results focus, will help our efforts tremendously.

2. **I often have heard concerns that performance appraisals for law enforcement officers beyond a pass/fail system would not be effective as law enforcement officers are a community who rely on team work. Has OPM worked with the law enforcement community under the PMA to begin improving its performance management systems? What principles would you envision guiding implementation of S. 3492 for this element of government?**

ANSWER: Teamwork is important in many types of organizations, including non-Federal organizations that have used pay-for-performance systems for many years. We do not believe performance-based pay systems are inherently incompatible with the need to use teamwork to accomplish agency missions. A requirement for working effectively as part of a team can be incorporated into the performance expectations for individual employees.

In virtually every type of work, including law enforcement work, there are opportunities for employees to excel or to perform poorly. Some employees will perform at a higher level than others. We believe that law enforcement supervisors and other employees can discern differences in performance—for example, recognize those who stand out as outstanding performers or as unsatisfactory performers. An effective way to make distinctions in performance is to appraise performance at more than two levels.

Federal law enforcement agencies already have some experience in recognizing outstanding performers through quality step increases (QSIs) under the General Schedule (GS) pay system. Granting a QSI requires a determination that an employee is performing at an outstanding level. The fact that GS law enforcement employees are granted QSIs indicates that it is possible to make performance distinctions in a law enforcement environment.

OPM is actively working with agencies, including the law enforcement community, to provide them with support to develop, enhance, and assess their performance appraisal systems. In this endeavor, the guiding principles are those that resonate in the PMA and the Executive Branch Management Scorecard; aligning employee performance plans with organizational goals, making rigorous distinctions in employee performance and pay, ensuring that performance plans contain balanced, credible measures that are results-focused, and holding supervisors and managers accountable for appraising their employees' performance and taking action to remove poor performers. We believe these principles will work well for all Federal employees; whether they are civilian employees or members of the law enforcement community. Of course, OPM urges agencies to carefully develop appropriate performance measures with employee involvement and to avoid numerical performance measures that might lead to undesirable behaviors (e.g., number of tickets issued or arrests made). Also, it is important that supervisors and managers be properly trained in performance management.

3. **Do adequate protections exist under title 5 to protect employees and their pay against retaliatory managers, and would they be preserved under S. 3492?**

ANSWER: Yes. Title 5 and the systems agencies establish to implement its provisions already provide a variety of protections and opportunities to raise concerns and obtain reconsideration of management actions. S. 3492 not only preserves the existing protections, it adds significant protections, including formal appeal rights that are not available to employees now.

Senator Daniel K. Akaka

1. **I strongly believe that mentoring and development programs improve employee retention and increase productivity. That is why my bill would require new managers to be mentored by more senior managers and require training for all managers on how to mentor employees. I understand that some agencies currently have such programs. What are your views on federal mentoring programs, and can you share with us any success stories from mentoring programs in federal agencies?**

   ANSWER: Over the next ten years, many of our experienced employees, particularly senior managers will be eligible for retirement. Mentoring new managers and leaders will give senior managers an opportunity to share their knowledge and experiences with newly appointed – or less experienced -- employees. We have a number of Government- wide hiring and developmental programs that require mentoring, such as the Senior Executive Service Candidate Development Programs and the Presidential Management Fellows Program.

2. **At the June 27th subcommittee oversight hearing on the Office of Personnel Management (OPM), we heard about the staffing, leadership, and management challenges facing the agency. One division in OPM subject to much criticism by the Government Accountability Office (GAO) was the Human Capital Leadership and Merit Systems Accountability (HCLMSA) division, which oversees agency compliance with merit system principles and certifies agencies' performance management systems for the Senior Executive Service pay for performance system. In light of the challenges reported by GAO, is that division prepared to fulfill the certification requirement in Senator Voinovich's bill, if passed?**

   ANSWER: The Human Capital Leadership and Merit Systems Accountability (HCLMSA) division was created as a result of the 2003 restructuring of OPM. The GAO's comments reflect a period of time when many changes were taking place within the agency. HCLMSA is now an established organization with a track record of success, including the SES Certification Process. The division is fully prepared to meet the objectives and requirements of Sen. Voinovich's bill. We have implemented a process through the President's Management Agenda (PMA) for evaluating agency performance appraisal systems against 10 criteria required for fair, credible, and transparent systems. The process used for these evaluations, using OPM's Performance Appraisal Assessment Tool (PAAT), has been very successful at determining whether agency systems are effectively aligned, focusing on results, measuring performance, making distinctions in levels of performance, providing training and feedback, and other important criteria. With this process already established successfully, OPM feels it is ready to meet the certification requirements of Senator Voinovich's bill.

3. **Earlier this year, OPM issued regulations requiring all agencies to report annually on employee training programs. I know the official reporting deadline is at the end of this year, but I'm interested in knowing whether any information is available now on managerial training programs?**

   ANSWER: No, no systematic data on managerial training is available at this time. We will be happy to provide background on the data collection process and discuss preliminary information as that becomes available and is properly vetted to insure its quality.

4. **I believe that most, if not all, training employees receive should be interactive and instructor-based to provide for discussion and questions. This training can be in a classroom or offered through the Internet. Can you share with us how agencies are using on-line training and how those programs are working?**

   ANSWER: OPM has worked to ensure availability of on-line training for Federal employees through its e-Training initiative. The vision of this initiative is to provide simplified, one-stop access to high quality e-learning, products, tools, and services. Consistent with this vision, OPM launched the GoLearn.gov website in July, 2002 to deliver high quality learning products and services to the Federal workforce. Since that time, five Federal providers of web-based training have been established (led by OPM, the National Security Agency, Commerce/NTIS, the State Department's Foreign Service Institute, and DoD's Defense Acquisition University). Courses have been completed nearly two million times with more than one million users now registered on the sites maintained by these providers. It is our judgment that the e-training initiative provides opportunities for useful online training that can also maximize the effectiveness of instructor-led training in a classroom setting. For example, agencies can use on-line training to handle read ahead assignments and background or administrative matters pertaining to courses, which can result in students being better prepared and time being better utilized for the instructor-based portion in the classroom-based setting.

5. **Ms. Simon, Public Policy Director of the American Federation of Government Employees, raised an interesting point in her written testimony regarding a March 2006 Merit Systems Protection Board (MSPB) study on pay for performance. MSPB warns that because of a diverse workplace, supervisors may be uncomfortable providing constructive criticism to employees who are visibly or culturally unlike them, which could lead to those employees receiving lower performance ratings. For those agencies currently using pay for performance, what efforts has OPM taken to address the impact of pay for performance on a diverse workforce?**

   ANSWER: OPM recognizes that managing diversity must be a key ingredient of any leadership managerial development program. This principle must be incorporated into managerial and employee training on effective performance

management. Robust performance management training programs will prepare managers and employees to engage in open, meaningful dialogue, both in setting the expectations and in evaluating whether they are met. OPM adheres to the firm belief that effective communication in setting clear standards in the front end will inform employees of any background/diversity of exactly what results their performance is expected to achieve. Training programs will help address any difficulties associated with performance-related communications with all employees.

Additionally, OPM has learned that results from years of demonstration project experience show communication is important, that employees have perceived their pay-for-performance systems to be fair, and that trust in management can be established and maintained, particularly when there is an effective process for allowing reconsideration of performance ratings.

6. **Both my bill and Senator Voinovich's bill call for OPM to consult with agencies in developing supervisor training programs. Should these measures become law, how do you envision OPM carrying out this role to ensure consistency in the training provided to managers?**

ANSWER: Should these measures become law, OPM's office responsible for training and development policy would establish regulations or guidance, as appropriate, to ensure the intent and provisions of the law are implemented with consistency.

OPM is developing a performance management competency model to be used by agencies when designing their training programs. Providing leadership for agencies' supervisor training programs would be the responsibility of OPM's division charged with consulting with the agencies on performance management issues. One means of ensuring consistency is to establish overall standards for the training that agencies must provide. We are mindful that the tremendous variety of work settings, work technologies, and specific work force characteristics one finds throughout the Federal Government must be taken into account when establishing and applying such standards. Agencies must be allowed the flexibility to develop and deliver courses that meet those standards but that are tailored to their specific needs and characteristics. After the regulations and/or guidance have been established, OPM would work with the agencies to help them design and develop the appropriate training, and ensure, through the agency's accountability report, compliance with the regulations.

Which division within OPM would have the lead responsibility for such training programs?

ANSWER: The Human Capital Leadership and Merit System Accountability division will be the lead but, as is customary, will coordinate with appropriate divisions throughout the agency.

7. **One issue that concerns me in any discussion of pay for performance is the equity, or lack of equity, associated with denying locality pay for employees who receive a low performance score. As you know, locality pay is to ensure federal employees in a particular geographic area are receiving comparable market area pay, and therefore is not determined by performance. Given that the adverse impact of denying locality pay to someone in a high-cost location would be greater than the adverse impact of denying such an increase to someone in a lower cost location, what could OPM do to address the inequity of the situation?**

ANSWER: The Administration believes that poor performers should be held accountable and should not be entitled to receive pay increases when they are performing below established performance expectations. It should be remembered that, in determining Federal employee annual pay increases, we rely on data showing ***average*** private sector salary increases. Obviously, not every private sector employee receives the average salary increase. In fact, many private sector employers have performance-based pay systems that deny pay increases to poor performers as we are proposing to do. Providing automatic increases to poor performers undermines our efforts to create a performance culture in the Federal Government and is a wasteful expenditure of taxpayer dollars.

We are aware that a pay freeze has a different financial impact in different locality pay areas, just as the varying pay increases among those areas have a different impact. That is the natural consequence of having a pay system in which pay rates vary by location. If it is equitable to have pay increases that vary by location (which it is), it is equally equitable to have pay freezes that have a varying financial impact. Please keep in mind that once an employee brings his (or her) performance up to the fully successful level, he will be eligible for future increases.

8. **Ms. Kelley, President of the National Treasury Employees Union, testified that OPM's Central Personnel Data File indicates that in fiscal year 2003 only 0.3 percent of rated employees received an unacceptable performance rating. She questions why such a small number of employees should be the basis of making fundamental changes to employee pay, such as denying across the board and locality pay increases. Do you believe that the number of unacceptable performers would rise under a pay for performance system?**

ANSWER: While the number of poor performers may be low, our actions in dealing with them send a powerful message to the rest of the workforce about

whether performance really matters. We do not have any predictions or any goals with respect to the number of unacceptable performers. We simply want employees' performance to be fairly and honestly evaluated based on clear performance expectations.

9. **Supervisor training is critical for the success of any personnel system. Yet we know that training funds many times fall victim to budgetary belt tightening. Moreover, as Senator Voinovich and I have said many times, it is impossible to find out just how much agencies spend on training activities. Can you provide us with the amount OPM spends on supervisor training, and how its effectiveness is evaluated?**

ANSWER: Within OPM we have instituted a system to collect data so that we are fully positioned to meet regulatory requirements to begin reporting corporate training data for our employees beginning December 31, 2006. Prior to the implementation of this system, individual program offices retained training records and we did not have an effective method of capturing training data as a corporate entity. We are continuing our work to transition to the new system and ensure that all training instances are entered into the system, and we fully anticipate that we will be positioned to begin reporting data by the December 31, 2006 deadline.

Based on data entered into the system to date, OPM has spent $28,325 on supervisory training during FY 2006. It should be noted that this figure only includes training data that has been inputted to date (again, we are still transitioning to the new data collection system—the final deadline for having all training data entered into the system is December 31, 2006). It should also be noted that the figure only includes individually-registered training for which OPM paid a fee; there are numerous training events/instances that were provided at no cost to OPM. In addition, the figure does not include internally-sponsored training offerings. For example, our internal HR office staff have recently conducted training sessions to approximately 300 supervisors with respect to performance management training and employee relations. Other training instances that are not captured in the data system are those that were provided in "bulk." For example, we have in the past secured a vendor to provide training to a group of supervisors at a quarterly staff meeting. Other types of training and developmental opportunities not captured in the referenced data system can include detail assignments, and on-the-job developmental or shadowing assignments.

Within OPM, we continuously use a variety of approaches to determine the effectiveness of supervisory training. These include:

a. systematic observation of performance of employees who complete training
b. the use of surveys and questionnaires to assess trainee reactions and attitudes
c. formal competency assessments to determine whether identified competency gaps are being mitigated over time
d. 360-degree leadership assessments that can help identify strengths and opportunities for improvement
e. Federal Human Capital Survey results to gauge whether employees perceive improvements in the quality of leadership over time
f. observation of changes in organizational performance and conclusions about the impact of the individual's improved competency on the organization's ability to meet goals and objectives

Post – Hearing Questions for the Record
Submitted to Darryl Perkinson, National President
Federal Managers Association
On behalf of the Government Managers Coalition

June 29, 2006

Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia

"Enhancing Employee Performance: A Hearing on Pending Legislation"

Senator Akaka

1. *You testified that managers no longer have the right to be a part of the Equal Employment Opportunity complaint process. Would you share with us how this came about?*

   A: The EEO process limits a manager's role when an EEO complaint is filed against them specifying a decision or adverse action they made relating to an employee. The limits are in response to the attempt by agencies and EEO to resolve the issue with an employee at the lowest level possible.

   The manager is placed in a position of relying on the agency experts as to how in depth the manager's role will be in an EEO complaint and is not offered any greater transparency in the review and decision of the complaint. For many cases the manager may be asked to testimony and assist in fact finding about events concerning the complaint, but this is not the standard policy. Without greater transparency in the process for managers, there is less accountability once a complaint is filed. Managers in my Association believe this is one area where the EEO system allows for a greater number of unmeritorious complaints to be filed.

2. *You mentioned the importance of managers understanding the complex rules and procedures governing whistleblower and anti-discrimination protection laws. As you know, my bill would require managers to receive training every three years on prohibited personnel practices, especially in these two areas. Ms. Kelley, President of the National Treasury Employees Union, suggests in her testimony that managers should also receive training on unfair labor practices. Do you believe managers have a sufficient understanding of employees' collective bargaining rights, and do you feel unfair labor practices should be part of any mandatory training program?*

A: While I agree that training on these specific issues is important and surely would benefit managers if they received it, we need to be careful that the any management training on unfair labor practices be apart of a larger training program on all parts of being a supervisor. Interpersonal skills, communications techniques, motivational behavior, and other topics of substance need to become part of the mandatory package of training.

It has been my personal experience that the percentage of actions taken by a manager in regards to unfair labor practices is much lower than the public and Congress is led to believe. The vast majority of managers come to work everyday trying to improve and make more efficient the working environment which many of them have little control.

3. *I strongly believe that mentoring and developing programs can help improve employee retention and increase productivity. That is why my bill would require new managers to be mentored by more senior managers and require training for all managers on how to mentor employees. I understand that some agencies currently have such programs. Do you have any information on the amount of mentoring managers receive now, and how often federal managers mentor their employees?*

   A: I strongly agree that mentoring and development programs do improve retention and productivity. Many of the younger managers today have problems that could be avoided if they were given a senior manager to guide them through the common pitfalls and initial trip-ups common to new supervisors. Unfortunately, the ratio of employees to managers rose dramatically with the overall federal workforce reduction in the mid-1990s. This was detrimental to the impact of mentoring opportunities available in the federal civil service. Our supervisors with mentoring experience are often placed in situations of doing more and more with fewer resources creating a mentoring void.

   Unwittingly, we have trained a generation of supervisors that did not receive any mentoring. That knowledge base is irreplaceable in the field. Mentoring techniques are a huge training investment that could be realized within the framework of the legislation you have so graciously proposed.

4. *Office of Personnel Management Deputy Directory Blair testified that most agencies have, or will soon have, new, multi-level appraisal systems- thus moving away from pass/fail performance appraisals. How we do you think agencies are using the new appraisal system, and are there any circumstances under which a pass/fail appraisal system should be retained?*

   A: Several years ago, many agencies went from a multi-tier system performance appraisal system to the pass/fail performance appraisal system, and ultimately took away motivation for workers to compete for results. The multi-tier system

allows the manager a more efficient method to rank their employees and provide them with an accurate assessment of how they stand in the organization.

My primary personal concerns about the implementation of the multi-tier evaluation are the increased workload imposed on managers and the potential pressure placed on a supervisor to change an evaluation because pay will be linked to the final rating. If budgets are tight in providing funds based upon performance appraisals, I see the potential for "forced distribution" or quotas to be a result of senior manager's reviews. This type of result will only impact the organization attitude in a negative manner. That said, the inadequacy of pass/fail systems grossly outweighs the challenges facing a multi-tiered performance appraisal system that does not properly rate employees.

Post-Hearing Questions for the Record
Submitted to Colleen Kelley, President
National Treasury Employees Union (NTEU)

Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia

"Enhancing Employee Performance: A Hearing on Pending Legislation"

June 29, 2006

Senator Daniel K. Akaka

1. I strongly believe that mentoring and development programs can help improve employee retention and increase productivity. That is why my bill would require new managers to be mentored by more senior managers and require training for all managers on how to mentor employees. I understand that some agencies currently have such programs. Do you have any information on the amount of mentoring federal employees represented by NTEU receive?

   NTEU shares your views as to the value of mentoring programs. While employees have mentioned to us the positive value of such initiatives, the existence of formal programs developed jointly by labor and management are very rare. We would welcome the opportunity to create such programs.

2. Office of Personnel Management Deputy Director Blair testified that most agencies have, or will soon have, new, multi-level appraisal systems – thus moving away from pass/fail performance appraisals. How well do you think agencies are using the new appraisal system, and are there any circumstances under which a pass/fail appraisal system should be retained?

   Deputy Director Blair is correct that most agencies have or are moving away from pass/fail systems to multi-level appraisal systems. In fact, the Environmental Protection Agency and the bureaus of the U.S. Department of the Treasury are moving from a three-tiered to a five-tiered appraisal system. While a case can be made that a greater number of gradations allows for a more meaningful evaluation, the issue is not the number of tiers but the system of evaluation. Multi-tiered performance appraisal systems must use a formula with valid, reliable and quantifiable common use criteria developed through labor – management negotiations.

3. Ms. Simon, Public Policy Director for the American Federation of Government Employees, correctly notes in her testimony that the General Schedule (GS) bases an employee's progression within grade on performance, which impacts pay. However, proponents of pay for performance believe that the GS step progression system is on autopilot. How would you respond to this perception?

   Some proponents of "pay for performance" systems have raised no objections to the structure of the GS step system but claimed the system in not being properly used as a tool for evaluation by supervisors. If a person is a poor driver, one does not resolve the problem by purchasing a new car. The GS step progression system allows for managers to reward and punish workers based on performance. To throw out the GS system because managers are not properly performing their duties will lead to an endless cycle of reforming the system rather than training managers. Senator Akaka's management training proposal is the proper response to better employee evaluation rather than abandonment of the GS system.

Post-Hearing QFR from Senator Daniel K. Akaka to Jacqueline Simon of AFGE

Question #1: "I strongly believe that mentoring and development programs can help improve employee retention and increase productivity. That is why my bill would require new managers to be mentored by ore senior managers and require training for all managers on how to mentor employees. I understand that some agencies currently have such programs. Do you have any information on the amount of mentoring federal employees represented by AFGE receive?

Answer: I shared your query with several AFGE officials. None could identify a mentoring program that had any official status, and none could recall ever having bargained over mentoring. Nevertheless, each one shared your view that mentoring is a crucial element of training, and strongly supported your bill's provision that would train managers on establishing mentoring programs.

Question #2: Deputy Director Blair testified that most agencies have, or will soon have, new multi-level appraisal systems – thus moving away from pass/fail performance appraisals. How well do you think agencies are using the new appraisal system, and are there any circumstances under which a pas/fail appraisal system should be retained?

Answer: When it comes to issues involving personnel management generally, and performance management specifically, OPM appears to be about as fickle as a young teenager, chasing one fad after another, glorifying an idea one day only to reject it and glorify its opposite soon after. They used to love pass/fail, now they hate it. They used to hate multi-level systems, now they love them.

Likewise, there are differences of opinion on the virtues and shortcomings of the various approaches among AFGE's locals as well. But since we are not able to bargain this, the fact that pass/fail exists is a reflection of the fact that it was imposed by management. Now, OMB and OPM have decided that all agencies must have a system that differentiates among levels of performance and our folks balk at the unilateral change to something that has become comfortable.

The NAVSEA Demonstration Project, that started in1994, is a useful example that shows the benefits of pass/fail. Management wanted pass/fail because they thought it would allow more meaningful performance discussions that would involve honest give and take sessions without the angst of a multi-level system. In other words, if the worker knows he is not in danger of failing (and that a rating does not determine performance pay), he is more likely to be open to a supervisor's suggestion that he has some weak areas and to discuss ways to improve, what tools or training would help, etc. If the worker is afraid to even acknowledge that he is less than perfect, only "fully successful," he will be less willing to have a constructive discussion about improvement, and will be much more likely to be defensive. The unions on the NAVSEA Steering Committee agreed. According to NAVSEA management, under pass/fail, the discussions were easier for supervisors as well since the tension was lessened and the discussion was about how to

do the best job possible, and how the supervisor could help. Of course, supervisors were expected to deal with the employee who truly wasn't "passing."

With NAVSEA, and probably most pass/fail systems, there are other criteria for determining cash awards and QSIs. It is not true that you have to have a multi-level system in order to recognize high performance. Our thinking with the NAVSEA Demo (the only one that actually expanded the scope of bargaining, so it undoubtedly is not popular with the Administration) was that the decision about whether someone was able and willing to do the job, or should be demoted, reassigned or terminated, was legitimately a performance management issue that arguably fit the management rights, limited bargaining template. Once you are dealing with good employees, however, there are a whole range of issues that can include group incentives, pay increases, awards, greater opportunities, interesting assignments, etc. to help motivate and reward employees that should be subject to bargaining, but in the current environment, should at least be more collaborative.

Question #3: You noted in your testimony that the General Schedule (GS) bases an employee's progression within grade on performance, which impacts pay. However, proponents of pay for performance believe that the GS step progression is on auto-pilot. How would you respond to this perception?

Answer: If it is on auto-pilot, then there is a serious performance problem among managers and supervisors. It is their responsibility to monitor performance, and communicate to employees when there is a performance problem. If they fail to do that, and thus lack any evidence of poor performance to justify a denial of a within grade increase, that is not a system failure, it is a management failure. The merit system principles require that evidence exist to justify an action such as the withholding of a within grade increase. If no evidence were required, there would be nothing to prevent politicization or discrimination in the awarding or withholding of these promotions. Since your question refers to a "perception" a final comment seems warranted: It is a perception based on the repletion of a false assertion. A certain oil company has created the perception that it is a company focused primarily environmental conservation by constantly broadcasting that message. I believe that the idea that within grade increases are on autopilot is the result of similar false advertising.

THE COUNCIL FOR
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IN GOVERNMENT

August 9, 2006

To: Senator Daniel K. Akaka
From: Patricia McGinnis
Subject: Pay for Performance Question Responses

Thank you for the opportunity to provide further input into the discussion of performance-appraisal systems in the federal workforce. You will find my answers to your questions below.

1. *Earlier this year, the Merit Systems Protection Board (MSPB) issued a report on pay for performance that cited seven requirements for the successful implementation of such a system. One requirement is having a culture that supports pay for performance. In your opinion, what factors contribute to a culture that is conducive to pay for performance?*

   For a culture to be conducive to pay for performance, human capital practices such as hiring, training, and performance evaluation must be integrated and focused on performance. Expectations must be clearly defined and effectively communicated along with measures to be used to evaluate performance.

2. *Any pay for performance system requires checks and balances to ensure fairness. However, both of the systems designed by the Department of Defense and the Department of Homeland Security (DHS) failed to ensure fairness, or at least the perception of fairness. What do you believe are the key elements that should be included to ensure fairness in pay for performance?*

   To ensure fairness and the perception of fairness in pay for performance, management's efforts must be transparent and communicated openly with employees. Transparency should not exist only in the implementation phase, but rather, in all phases—from the design of the pay for performance system to its implementation and evaluation. Avenues for bottom-up communication should also exist in order to leverage existing experience and to build ownership of a new system.

3. *You mentioned in your testimony the lack of trust between political appointees and civil servants on agency performance. Since the development of the new personnel rules for DHS, I believe the level of trust has decreased dramatically. What suggestion do you have for improving the trust between employees, managers and political appointees?*

Communicate, communicate, communicate. To improve trust between employees, managers, and political appointees, efforts to boost agency performance must involve two key elements: constant communication between all three groups, and the genuine welcoming of employees into the development and implementation phases of the effort. The importance of communication is clear. For example, without knowledge of both the goals and concerns of managers and employees, political appointees are certain to encounter significant barriers to affecting change. Similarly, without an honest dialogue with managers and political appointees, employees will lack the direction and motivation needed to fully achieve an agency's mission.

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