



Testimony of  
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on

Federal Pay Policies and Administration

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Chairman Davis, Ranking Member Marchant, and members of the Subcommittee, I appreciate the opportunity to appear again before this distinguished subcommittee to discuss the important subject of federal pay systems. As you know, the National Treasury Employees Union represents more than 150,000 federal employees in over 30 different agencies and departments throughout the government.

The subcommittee should be commended for investigating this important subject. The subject of pay is close to every employee's heart, not just those who work in government. A fair and just wage has really been at the core of labor management relations for decades. Whether you work in the public or private sector, the concept of a fair day's pay for a fair day's work is a basic tenet in employee/employer relationships. Federal employees want what every other employee wants, a system that offers fair compensation for a fair day of quality work.

The General Schedule system, or GS system of pay as it is commonly known, is essentially a market based system that utilizes merit based increases. It is the system through which hundreds of thousands of dedicated federal employees meet their responsibility to serving the public every day. Recently, your subcommittee heard from Professor Charles Fay of Rutgers University, an expert in the compensation field who describes compensation as an art, not a science. In discussing market pricing for the government he said the Bureau of Labor Statistics "uses impeccable methodology in gathering reliable and valid data to price the GS, and applies sophisticated statistical methods to evaluate survey data and to apply it to the GS for the Federal Salary Council." (*May 22, 2007 testimony*) The same cannot unfortunately be said of the many compensation experiments currently going on in government.

Recently the Partnership for Public Service publicized a report finding that one-third of the 55 Chief Human Capitol Officers (CHCOs) in government supported scrapping the GS system immediately. I would point out that one-third of the 55 people polled is a minority and my guess is that most of the CHCOs are covered by the SES pay schedule, not the General Schedule. Yet this very small group of 18 believe a government - wide compensation system covering 1.2 million dedicated public servants should be scrapped. I strongly disagree with that and hope my testimony will refute some of the misinformation being circulated about the government's GS pay system.

Federal employees help keep our government systems running, protect our health, and safety including the food supply; support our states and cities; administer benefits like social security; and, along with our brothers and sisters in the military, protect our homeland and defend our borders.

Unfortunately, the current Administration has taken steps to dismantle the current GS system and replace it with various pay for performance management systems. But there is no hard evidence that these alternative systems work. To the contrary, there is some evidence that they do *not* work.

## **Federal Pay Update**

Before I discuss the subject of alternative pay systems, however, I would like to provide an update on the federal pay raise. As many of you may know, I was an early opponent of the Administration's proposal to raise federal pay by just 3 percent. Last year federal employees and military personnel suffered one of the lowest pay raises in decades. The Administration-backed 2.2 percent increase amounted to the lowest raise in almost twenty years for federal employees, hurting morale and keeping federal workforce salaries well behind the private sector. Most federal employees actually received only a 1.8 percent raise when taking into account locality pay. This did little to reduce the 13 percent pay gap between private sector and public sector pay, the stated goal of the 1990 Federal Employees Pay Comparability Act (FEPCA).

When the Administration proposed its Fiscal Year 2008 budget of 3 percent, I spoke out in opposition and called for a minimum 3.5 percent increase. I believed then, and I still believe today, that if we are serious about addressing the federal workforce, fair and adequate pay is the first place to start. Federal civil servants and the military deserve at least another half percent above the recommended level to bring the average pay raise to 3.5 percent. Not only would this level make a dent in the 13 percent pay gap, but it would continue the precedent of enacting a raise based on the Employment Cost Index (ECI) plus ½ percent. The ECI plus ½ percent standard has been followed in every year of the current Administration until 2007.

Fortunately, with the support of many members of this subcommittee, on June 28, 2007, the House passed the Financial Services and General Government Appropriations Act for FY 2008 which included the 3.5 percent raise. The Senate Appropriations Committee reported 3.5 percent in its bill on July 12<sup>th</sup>. Similarly, the Defense authorization and appropriations measures contain a 3.5 percent basic pay raise for military personnel. These legislative measures are moving through Congress and NTEU will continue to push for their enactment. In the interests of parity, comparability with the private sector, closing the pay gap and basic fairness, we will continue our advocacy until this level becomes law.

## **Alternative Pay Systems**

There has been a great deal of discussion about alternative pay systems, including so-called pay for performance systems. The Administration has begun implementing alternative pay systems at federal agencies. While NTEU stands ready to contribute to measures leading to a more effective and efficient federal government, my concern is that the Administration has moved forward on pay alternatives without first demonstrating that a problem exists. It has not brought forth the kind of comprehensive impartial data-based research explaining why it finds the GS system inadequate. Nor has it required agencies to use the many authorities and flexibilities already available to them to offer alternative pay and benefits. I will discuss these flexibilities later in my testimony.

However, first I would like to comment specifically about several alternative pay systems that NTEU has been involved with, including the Federal Deposit Insurance Corporation (FDIC) system, which has been in effect for several years, the Department of Homeland Security (DHS) system, which is still in the planning and implementation stage, the IRS system that currently

covers only managers, and the Transportation Security Administration's (TSA) problematic PASS system.

Let me point out that alternative pay and personnel systems have a very small, if not negligible, impact on recruiting, retaining and maximizing the performance of federal employees. To quote Robert Behn, author and lecturer at Harvard University's John F. Kennedy School of Government, "Systems don't improve performance; leaders do." In his book, *The Human Equation: Building Profits by Putting People First*, Jeffrey Pfeffer, of Harvard Business School says, "Although variable pay systems that attempt to differentially reward individuals are clearly currently on the increase, such systems are frequently fraught with problems. Incentives that reward groups of employees or even the entire organization...are customarily preferable." (p.203)

I believe leadership that solicits, values and acts on the ideas of frontline employees in efforts to achieve agency missions is missing in many agencies today. Providing that kind of leadership would do more to improve the quality of applicants and performance of employees than alternative personnel systems and so-called pay for performance projects as proposed by this Administration. Let me bring to the subcommittee's attention the following examples of alternative compensation systems which are all problematic.

#### **FDIC**

NTEU is the union for bargaining unit employees at the FDIC. We have bargained over compensation there since 1993. While we have serious concerns about the current state of the pay system at the FDIC, we strongly believe that in the absence of a statutorily defined pay system, like the GS system, pay should be subject to collective bargaining, as it is in the private sector. Especially in a government environment, employees and the public need a credible means of ensuring that pay is set objectively. That can be by statute, as the GS system, or by collective bargaining, but without one of these approaches, the system will lack credibility and be open to charges of subjectivity and favoritism. I believe FDIC management agrees that bargaining over compensation has been positive for the organization.

I believe that NTEU and FDIC management also agree that you have to have the money to reward good performance. As you know, guaranteeing that the money will be there to fund additional pay in a system reliant on Congressional appropriations is virtually impossible. It is only slightly more possible in a government corporation like FDIC, that is funded by fees.

A key area, however, in which NTEU is at odds with FDIC is the current system to determine performance-based pay. Several years ago, the FDIC divorced its pay system from its performance management system, and established a separate set of "corporate contribution" factors to determine employee annual pay increases. Although multi-level performance scores have recently been reintroduced as a factor in pay determinations, pay increases are still based primarily on the "corporate contribution" criteria, which are highly subjective, and not grade or job-specific. Furthermore, although pay increases are purportedly based on merit, the FDIC uses a forced distribution system in determining employee pay increases: employees in each

organizational component must be “ranked,” and the top level pay increases are limited to the top 25% of employees.

This system of forced rankings and pay distributions has demoralized and angered FDIC employees. Our members report that the system is divisive and discourages teamwork. It is discouraging employees from taking risks, and sends the message that three quarters of them cannot ever be considered to be top performers, regardless of how well they perform. The forced ranking system, under which employees from different work units with different supervisors must be ranked against one another, smacks of a “star chamber” approach to pay-for-performance.

With the heavy reliance on vague and subjective “corporate contribution” factors, employees do not clearly understand what they must do to be evaluated at the highest level, and the forced ranking system prevents them from ever knowing how this might translate into a pay increase, so that the pay system does little to actually motivate performance. The current system therefore lacks transparency and credibility, and has caused employees to question its fairness. Hundreds of individual grievances have been filed alleging unfair pay determinations, as well as mass grievances alleging discriminatory impact based on age and race. A previous system used by the FDIC, in which pay increases were tied directly to the results under multi-level performance evaluations, without arbitrary limits on the number of employees who could receive performance-based pay at each level, had credibility with employees. The current system does not.

## IRS

The Internal Revenue Service (IRS) has a pay banding performance based compensation system. While bargaining unit employees represented by NTEU are not covered by this alternative system, managers participate in it. I would like to comment briefly on this pay system and its shortcomings.

Just this month, on July 3, 2007, the Treasury Inspector General for Tax Administration (TIGTA) released a report (2007-10-106) titled, “*The Internal Revenue Pay-for-Performance System May Not Support Initiatives to Recruit, Retain, and Motivate Future Leaders.*” The TIGTA report found a number of serious deficiencies in the pay for performance system at the IRS. Most alarming to me, Mr. Chairman, was the sentence on page 1 of the report under “Impact on the Taxpayer” and I quote:

“In addition, the new System was not adequately communicated to the managers before it was implemented, causing opposition and decreasing morale. As a result, the IRS risks reducing its ability to *provide quality service to taxpayers* because the Internal Revenue Pay-for-Performance System potentially hinders the IRS’ ability to recruit, retain, and motivate highly skilled leaders.” (*emphasis added*)

I believe we cannot ignore the bottom line mission of the agency in these pay experiments. If these alternative pay systems are jeopardizing the achievement of an agency’s

core mission – in this case to provide quality service to taxpayers—how can we justify more experiments with these systems that have questionable successes?

In its report, TIGTA found: 1) the system discouraged both managers and non-managers from applying for managerial positions; 2) performance based pay increases were not necessarily commensurate with a manager's performance; and 3) the Human Capital Office (HCO) did not adequately communicate with affected managers, which increased opposition and decreased morale. I need not remind you, Mr. Chairman, that the point of this pay experiment was to attract quality talent to offset an expected dearth of government managers when nearly 90 percent of high level government managers will become eligible to retire in the near future. These dismal findings hardly confirm the predictions of success.

Shortly after this report was issued we understand the Federal Managers Association (FMA) revealed its own misgivings about the direction of the system in its newsletter to FMA members. Most revealing was its internal survey which showed that 92 percent of respondents answered "no" when asked if the current performance management system accurately identifies the truly 'outstanding' managers. (*FMA newsletter 2007-11, July 10, 2007*) Further, FMA agreed with TIGTA that communication with employees needs to be more "open and timely" with respect to pay before changes to pay and benefits can be made.

Results shown by TIGTA and FMA demonstrate to me that not much was learned since 2004 when the Hay Group did a Senior Management Pay band (SMPB) Evaluation on this system for the IRS. (June 25, 2004) At that time the results showed: 1) 76% of covered employees felt the system had a negative or no impact on their motivation to perform their best; 2) 63% said it had a negative or no impact on the overall performance of senior managers; 3) "Only one in four senior managers agree that the SMPB is a fair system for rewarding job performance or that ratings are handled fairly under the system;" 4) "Increased organizational performance is not attributed to the SMPB."

The results of this system are dismal, yet it is showcased as a model for moving the whole federal government to a similar system. In fact, there is a dearth of information to indicate that alternative pay systems have had any significant impact on recruitment, retention or performance. A GAO report on "Human Capital, Implementing Pay for Performance at Selected Personnel Demonstration Projects" from January 2004 (GAO-04-291) included virtually no evidence that the systems improved any of those measures. In fact, the Civilian Acquisition Personnel Demonstration Project, reviewed in that report, had as one of its main purposes, to "attract, motivate, and retain a high-quality acquisition workforce." Yet, attrition rates increased across the board under the pilot.

## **DHS**

Despite being ranked at the bottom of the Partnership for Public Service's annual survey of "Best Government Places to Work," DHS is insistent on moving forward with an alternative personnel and pay system. While the pay for performance system at DHS has not yet been implemented, we are very concerned that it will push employees who are already demoralized out of the agency when the importance of keeping experienced, skilled

employees is greater than ever. Let me be clear, the employee opposition to the proposed DHS system is not about "fear of change," as some have tried to portray it. I know firsthand that this group of employees, entrusted with protecting our country from terrorists and other criminals, is not a fearful group. What they most object to about the proposed DHS system is that it will make it harder, not easier, to accomplish the critical mission of the agency.

There are several reasons for this: 1) The system is not set by statute or subject to collective bargaining, so there is nothing to provide it credibility among employees; 2) The system will have employees competing against each other over small amounts of money, discouraging teamwork, which is critically important in law enforcement; 3) The system is subjective, which will lead to at least the appearance of favoritism; 4) The system is enormously complex, the administration of which will require huge amounts of money that is so much more desperately needed in frontline functions, not to mention siphoning off money that could go for more pay in a less administratively burdensome system; 5) the draft competencies for the new DHS system do not recognize or reward the real work that these employees do to keep our country safe.

And while I am on the subject of DHS, I want to divert for a moment on the first point I raised, the issue of collective bargaining. This is a timely subject as your subcommittee knows. The courts have thrown out DHS regulations that relied on provisions in the Homeland Security Act of 2002 (HSA) allowing limits on collective bargaining. Similar DHS efforts to promulgate regulations based on the HSA that would make the pay system less fair and objective and more open to abuse have faltered, but are continuing. NTEU believes these provisions of the HSA should be repealed as provided in H.R. 1684, the Department of Homeland Security Authorization Act that passed the House on May 9, 2007. In addition, screeners in the Transportation Security Administration should be afforded the same collective bargaining rights as other DHS employees as provided for in the original House-passed 9/11 Commission bill. I have called for this and will continue to fight for those rights.

Finally, I would be remiss if I did not mention the new alternative pay system for Transportation Security Officers (TSOs) at the Transportation Security Administration (TSA) called the Performance Accountability and Standards System (PASS). This misguided plan was unveiled in 2006 and is already in disarray.

TSA's PASS system is one of the largest concerns for TSA employees. At JFK International Airport, for example, employees are rated at four levels ranging from "role model" to "did not meet expectations." Employees are eligible for merit raises if they attained ratings at the two highest levels. We understand that only a handful of TSOs at JFK received ratings at the highest level rating and possibly only 20% of the total number received ratings enabling them to qualify for a merit raise in their base pay. Allegations of favoritism and cronyism surround the system because there is no meaningful way for employees to challenge their ratings. Without collective bargaining rights, employees fear retribution if they speak up.

TSA has one of the highest voluntary attrition rates in the entire federal government and in my mind systems like PASS contribute to this. In a recent Government Accountability Office (GAO-07-299) report on airport security, GAO attributed a high attrition rate at TSA to include,

“limited advancement opportunities, need for a higher paying job, work hours, difficulty of work and job satisfaction.” (p.48)

Mr. Chairman, let me be clear. NTEU is not averse to change. We have welcomed, including at the FDIC where we have bargaining unit employees, and elsewhere, the opportunity to try new ways of doing things. Based on my experience, these are the things I believe will have the most impact on the quality of applicants and the motivation, performance, loyalty and success of federal workers.

- 1) Leadership. Rules and systems don't motivate people. Leaders do.
- 2) Opportunities for employees to have input into decisions that affect them and the functioning of their agencies. They have good ideas that management is currently ignoring.
- 3) A fair compensation system that has credibility among employees, promotes teamwork and is not administratively burdensome.

Unfortunately, I do not believe the experiments in alternative pay systems like these I have discussed can be any sort of model for positive change. It is a mystery to me where the evidence is that these systems have produced successes to justify putting them in place throughout the federal government. While I know the Partnership for Public Service's limited survey points to a small sample of those calling for the demise of the GS system, I fail to see any credible comprehensive studies that demonstrate an empirical body of evidence to support a sweeping change of this magnitude.

### **OPM and Flexibilities**

Mr. Chairman, the subcommittee has pointed out -- and we have all read in the media -- that a surge in federal retirements could occur in the next several years. The Council for Excellence in Government & Gallup Organization recently reported that 60 percent of the federal government's General Schedule employees and 90 percent of the Senior Executive Service will be eligible to retire in the next ten years. (*Within Reach . . . But Out of Synchrony: The Possibilities and Challenges of Shaping Tomorrow's Government Workforce*, December, 5, 2006).

While no one knows for sure whether all of those eligible to retire will actually do so, I do know that the federal government had better be prepared to compete for the best and brightest of the young new workers. Just as importantly, however, it must be prepared to use its many existing authorities and flexibilities to *retain* the hundreds of thousands of talented public servants who have the knowledge and expertise to continue contributing to the federal workforce. The failure to pay competitive salaries, the constant focus on downsizing and outsourcing and the bashing of federal bureaucrats have put the federal government at a disadvantage when it comes not only to hiring the best new college graduates, but also to retaining its current employees.

Unfortunately, many federal agencies have been lax in utilizing their existing authorities and administrative personnel rules to retain the thousands of dedicated public servants who are



currently working in our federal agencies. I contend that we should not plunge forward with untested pay experiments until we require OPM and the agencies to use existing flexibilities.

During the debate over the Bush Administration's ill-conceived proposal to change the GS pay system, I pointed out that there are a host of provisions on the books that allow the federal government to reward high performers, including recruitment and retention bonuses, quality step increases and paid time off awards. These options are often not used because agencies are not given the resources to fund them, or agencies find it cumbersome to ask OPM for authorization.

But before we spend more taxpayers' money designing entirely new compensation systems, the Office of Personnel Management (OPM) must do more to make sure agencies are aware of these existing provisions and are given the necessary tools to use them to their maximum capacity.

The Office of Personnel Management (OPM) issues a manual of authorities and flexibilities that is currently available to the different federal agencies under Title V of the US Code, entitled *Human Resources Flexibilities and Authorities in the Federal Government*. It essentially contains a list of flexibilities and authorities under which federal agencies can make personnel accommodations to attract candidates to the federal government or to offer incentives for federal employees to remain in their government jobs.

The Government Accountability Office (GAO) has undertaken a number of studies focusing on the importance of designing and using human capital flexibilities. In one report (GAO-03-02), the GAO found that the flexibilities that are most effective in managing the federal workforce are those such as time off awards and flexible work schedules. In other words, flexibilities are in place for employees and agencies to agree upon set times off to better balance the demands of career and family life.

Unfortunately, OPM has not focused extensively on advertising existing authorities and flexibilities. OPM states in the Preface of its handbook, "We serve as a resource for you as you use existing HR flexibilities to strategically align human resources management systems with your mission." (*p.i*) yet, most federal agencies do not take advantage of them. Agencies can offer numerous awards as incentives to employees. These range from things like cash awards to individuals and groups; to quality step increases; to retention allowances; to foreign language awards; to travel incentives; to referral bonuses and others. Before Congress moves to pass new laws, it should require OPM to promote existing authorities, and aggressively require federal agencies to examine current avenues available to them to recruit and maintain their federal employees.

I would like to address just a couple of options the agencies now have available.

**First, Telecommuting.** Agencies can now offer telecommuting, also known as telework, or programs that allow employees to work at home or another approved location away from the regular office. While existing flexibilities exist on telecommuting, Congress has also acted to promote its use. In the FY 2006 State, Justice Commerce Appropriations bill, language

was included in Sec. 617 requiring each department or agency to report to Congress on telecommuting and to maintain a telework coordinator. Earlier, in 2000, Congress passed legislation requiring executive agencies to establish telecommuting policies to the extent possible. And NTEU has negotiated telework agreements with management in many federal agencies.

In surveying the thirty agencies represented by NTEU, we found mixed results in terms of management's commitment to the concept. Experience has shown that telework can bring increased productivity due to uninterrupted time for employees to plan work and carry it out. It also saves energy, reduces air quality problems and congestion on our roads while enhancing the quality of family life. We found successful programs at the IRS and Patent and Trademark Office. We also found resistance to telecommuting at the Bureau of Alcohol, Tobacco and Firearms (AFT), the Security and Exchange Commission (SEC) and the Office of the Comptroller of the Currency (OCC).

There is no doubt in my mind that OPM could be playing a more prominent role in assisting agencies to move forward on their telecommuting and telework policies.

***Second, Compensation and Salary.*** Mr. Chairman, a quick look at OPM's handbook will show the many areas in which OPM and federal agencies have the authority to offer special salary and compensation without requiring additional legislation. I have called upon the OPM Director, for example, to grant Special Salary Rates under Title V to federal workers in the New Orleans area who continue to face skyrocketing expenses like higher rents, gas, commuting costs, and insurance premiums after the devastation of the Gulf Coast Hurricanes. No legislation is needed for this. Federal agencies simply need to make their case to OPM and OPM can grant special salary relief.

Many, many other compensation flexibilities exist at federal agencies and I won't go into all of them here. But The Government Accountability Office (GAO) reported in its study of human capital flexibilities a few years ago that "monetary recruitment and retention incentives, such as recruitment bonuses and retention allowances...and incentive awards for notable job performance and contributions, such as cash and time-off awards" ranked as among the "most effective flexibilities" (GAO-03-2).

***Third, Student Loan Repayments.*** This benefit could be critical to recruiting top notch qualified public servants. Under this existing authority, agencies may repay federally insured student loans as an incentive for attracting candidates. An agency may pay up to \$10,000 per employee in any calendar year or a total of \$60,000 per employee. I would like to see, Mr. Chairman, a report from the agencies on how many are using this excellent opportunity to recruit federal employees. Unfortunately, I suspect, not many are.

## **Conclusion**

In summary, I will be brief: 1) There is no hard evidence that the current pay system for federal employees needs to be changed; 2) The current experiments with alternative pay systems

are failing; and, 3) The government should use the flexibilities it currently has before moving to new pay system experiments.

But most of all, a federal personnel system should recognize and reward leadership, foster opportunities for input and ensure a fair compensation system that is transparent and credible.