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Comptroller General  
of the United States

United States General Accounting Office  
Washington, DC 20548

April 30, 2004

The Honorable George V. Voinovich  
Chairman  
The Honorable Richard Durbin  
Ranking Minority Member  
Subcommittee on Oversight of Government  
Management, the Federal Workforce, and the  
District of Columbia  
Committee on Governmental Affairs  
United States Senate

The Honorable Jo Ann Davis  
Chairwoman  
The Honorable Danny Davis  
Ranking Minority Member  
Subcommittee on Civil Service and  
Agency Organization  
Committee on Government Reform  
United States House of Representatives

Subject: *Additional Posthearing Questions Related to Proposed Department of  
Homeland Security (DHS) Human Capital Regulations*

On February 25, 2004, I testified before your subcommittees at a hearing entitled “The Key to Homeland Security: The New Human Resources System.”<sup>1</sup> I provided responses to an initial set of questions in correspondence dated March 22, 2004.<sup>2</sup> This report responds to your request that I provide answers to additional posthearing questions posed by Senator Akaka and Senator Lautenberg. The questions and responses follow.

#### Questions from Senator Akaka

- 1. In your written testimony, you recommend giving members of the internal appeals panel, rather than the Secretary, the authority to remove their fellow panel members for inefficiency. However, you are silent on the**

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<sup>1</sup>U.S. General Accounting Office, *Human Capital: Preliminary Observations on Proposed DHS Human Capital Regulations*, GAO-04-479T (Washington, D.C.: Feb. 25, 2004).

<sup>2</sup>U.S. General Accounting Office, *Posthearing Questions Related to Proposed Department of Homeland Security (DHS) Human Capital Regulations*, GAO-04-570R (Washington, D.C.: Mar. 22, 2004).

**same issue for the internal labor-management board. What recommendations do you have for improving the impartiality of the proposed labor-management board at the Department of Homeland Security (DHS)?**

As you noted, I raised independence concerns about the panel to be created to hear appeals for mandatory removal offenses. Members of that panel are appointed by the Department of Homeland Security (DHS) Secretary for 3-year terms and may be removed by the Secretary “only for inefficiency, neglect of duty, or malfeasance.” These appointment and removal procedures are identical to the appointment and removal provisions for the members of the proposed DHS Labor Relations Board. As I noted in my statement with regard to the mandatory removal offense panel, removal of the panel members by the Secretary may potentially compromise the real or perceived independence of the panel's decisions. We suggested, as an alternative, that the department should consider having members of the panel removed only by a majority decision of the panel. Such changes might also strengthen the independence of the Labor Relations Board. We also said that DHS might wish to consider staggering the terms of the members to ensure a degree of continuity on the board.

**2. The General Accounting Office (GAO) has been active in reviewing and making recommendations regarding new personnel flexibilities in the federal government. As you know, DHS has requested \$102.5 million for the implementation of its new personnel system. Based on GAO research and your own experience with the personnel system at GAO, is the department’s request sufficient to adequately implement the system? How much do you expect the financial cost of the system to be in the long term?**

As you note, the administration has requested for fiscal year 2005 \$102.5 million to fund training, the development of the performance management and compensation system, and contractor support. In addition, the fiscal year 2005 budget requests over \$10 million for a performance pay fund in the first phase of implementation (affecting about 8,000 employees) to recognize those who meet or exceed expectations and about \$20 million to fund the development of a departmental human resources information technology system. The training costs do not include employees’ time during training or expenses of the internal training resources that already exist within DHS.

We have reported that based on the data that the Office of Personnel Management’s (OPM) personnel demonstration projects provided us, direct costs associated with salaries, training, and automation and data systems were the major cost drivers of implementing their pay for performance systems. The demonstration projects reported other direct costs, such as evaluations and administrative expenses. We described a number of approaches they used to manage the direct costs of implementing and maintaining their pay for performance systems.<sup>3</sup>

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<sup>3</sup>U.S. General Accounting Office, *Human Capital: Implementing Pay for Performance at Selected Personnel Demonstration Projects*, GAO-04-83 (Washington, D.C.: Jan. 23, 2004).

While we do not have an estimate of additional implementation costs, clearly, further funding will be required as the system is rolled out to additional DHS personnel. In addition, ongoing training is essential to reinforce the considerable cultural change that is needed to continue to implement a new performance management system. DHS is recognizing that there are up-front costs and that its components are starting from different places regarding the maturity and capabilities of their performance management systems. While the investments are important to the ultimate success of DHS's efforts, it is equally important that certain costs are one-time in nature and, therefore, should not be built into the base of DHS's budget for future years.

**3. The GAO has conducted extensive reviews of personnel reform in other countries and at other federal agencies. In the case of the FAA, Congress granted certain flexibilities but then reinstated the current labor-management relations system found in chapter 71 and appeals to the MSPB. I also understand that other countries, which initially moved from a centralized system to an individual agency personnel system, have since returned to a form of centralization. What are the lessons learned from personnel reform efforts both here and abroad and, in your opinion, has DHS incorporated these best practices?**

Since the United States is not alone in experiencing challenges in managing its human capital, we reviewed other countries' experiences in our August 2002 report on performance management.<sup>4</sup> For example, Australia devolved almost all human capital management responsibilities to individual departments and agencies whose chief executives may negotiate compensation with individuals or groups of employees. Australia's Public Service Commission was to remain responsible for promoting high-quality human capital management and its Department of Employment and Workplace Relations plays a key role in helping agencies develop workplace relations that are consistent with a high performing public service. We have not updated our work to identify if there have been any changes in their responsibilities.

As we noted in our statement, we strongly support the need for government transformation and the concept of modernizing federal human capital policies. To help the new DHS, we convened a forum of a cross-section of leaders who have had experience managing large-scale organizational mergers, acquisitions, and transformations, and identified key practices and implementation steps that can help agencies implement successful transformations of their own.<sup>5</sup> While no two efforts are exactly alike, the "best" approach for any given effort depends upon a variety of factors specific to each context. Last September, we reported that DHS's design of its human capital system generally reflects these elements of effective transformation.<sup>6</sup>

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<sup>4</sup>U.S. General Accounting Office, *Results-Oriented Cultures: Insights for U.S. Agencies from Other Countries' Performance Management Initiatives*, GAO-02-862 (Washington, D.C.: Aug. 2, 2002).

<sup>5</sup>U.S. General Accounting Office, *Results-Oriented Cultures: Implementation Steps to Assist Mergers and Organizational Transformations*, GAO-03-669 (Washington, D.C.: July 2, 2003); and *Highlights of a GAO Forum: Mergers and Transformation: Lessons Learned for a Department of Homeland Security and Other Federal Agencies*, GAO-03-293SP (Washington, D.C.: Nov. 14, 2002).

<sup>6</sup>U.S. General Accounting Office, *Human Capital: DHS Personnel System Design Effort Provides for Collaboration and Employee Participation*, GAO-03-1099 (Washington, D.C.: Sept. 30, 2003).

Our work has also shown that changes to human capital management should be implemented only when an agency has the institutional infrastructure in place. This institutional infrastructure includes, at a minimum, a human capital planning process that integrates the agency's human capital policies, strategies, and programs with its program goals and mission and desired outcomes; the capabilities to develop and implement a new human capital system effectively; and a modern, effective, and credible performance management system that includes adequate safeguards to prevent abuse of employees. We have issued several products that discuss this framework in more detail.<sup>7</sup>

As you noted, the Federal Aviation Administration (FAA) is managing its personnel under one of the most flexible human capital management environments in the federal government. This is a result of 1995 legislation that granted the agency broad exemptions from laws governing federal civilian personnel management found in title 5 of the United States Code. Congress provided these flexibilities in response to FAA's position that the inflexibility of federal personnel systems was one of the most important constraints to the agency's ability to be responsive to the airline industry's needs and to increase productivity in air traffic control operations. In a report issued last year, we noted that FAA had not fully incorporated elements that are important to effective human capital management into its overall reform effort.<sup>8</sup> These elements include data collection and analysis, performance goals and measures, and linkage of reform goals to program goals. FAA human resource management officials said that the agency should have spent more time to develop baseline data and performance measures before implementing the broad range of reforms, but that establishing these elements was a complex and difficult task. We additionally reported that FAA had also not gone far enough in establishing linkage between reform goals and the overall program goals of the organization. Clearly, FAA did not have the institutional framework in place that could have helped to maximize its personnel flexibilities.

Consistent with the institutional infrastructure described above, agencies in other countries are placing a greater emphasis on achieving alignment between individual and organizational results. A first step towards this end is to align the performance expectations of top leadership with organizational goals and then cascade those expectations down to lower levels and then to align performance expectations between agencies and with governmentwide priorities.

The proposed DHS regulations state the department's interest in the alignment of individual performance expectations with the mission and strategic goals, but do not yet detail how individual performance expectations will be aligned with the department's mission and strategic goals. The release of the DHS Strategic Plan can enable this alignment. In addition, the proposed regulations describe a phased approach to implementation and a commitment to an ongoing evaluation of the

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<sup>7</sup>U.S. General Accounting Office, *Human Capital: Key Principles for Effective Strategic Workforce Planning*, GAO-04-39 (Washington, D.C.: Dec. 11, 2003); *Human Capital: Effective Use of Flexibilities Can Assist Agencies in Managing Their Workforces*, GAO-03-2 (Washington, D.C.: Dec. 6, 2002); and *Results-Oriented Cultures: Creating a Clear Linkage between Individual Performance and Organizational Success*, GAO-03-488 (Washington, D.C.: Mar. 14, 2003).

<sup>8</sup>U.S. General Accounting Office, *Human Capital Management: FAA's Reform Effort Requires a More Strategic Approach*, GAO-03-156 (Washington, D.C.: Feb. 3, 2003).

effectiveness of the human capital system. A phased approach recognizes that different organizations will have different levels of readiness and different capabilities to implement the new authorities. Moreover, a phased approach allows for learning so that midcourse corrections can be made before the regulations are fully implemented organizationwide. Likewise, evaluations of the system's success will ensure that these system revisions are based on data-driven lessons learned.

- 4. According to the proposed regulations, law enforcement officers are not among the list of individuals excluded from the personnel system. As the Department plans to implement a pay-for-performance system, I am concerned over the method by which law enforcement officers are judged on their performance and whether a pay-for-performance system could increase civil rights abuses. Due to your extensive experience in studying, as well as implementing, pay-for-performance systems, what are the best practices on how to measure the performance of law enforcement officers?**

While we have reported on local police forces' experiences in recruiting and retaining officers after the terrorist attacks of September 11, 2001, we have not reviewed how to measure the performance of law enforcement officers.<sup>9</sup> However, high-performing organizations use validated core competencies to examine individual contributions to organizational results. Competencies define the skills and supporting behaviors that individuals are expected to exhibit to carry out their work effectively and can provide a fuller picture of an individual's performance and contribution to organizational goals.<sup>10</sup> With regard to law enforcement, a focus on competencies would entail identifying and validating those competencies that are critical to successful law enforcement efforts. This approach should include a range of factors, including achieving results and protecting individual constitutional rights and civil liberties. A related pay for performance approach would center on creating incentives for—and rewarding—demonstrated proficiencies in the validated core competencies.

#### Question from Senator Lautenberg

- 1. Could you explain how local labor market rates will determine the pay bands and why you think that private sector salaries should affect DHS employees' salaries?**

A competitive compensation system can help organizations attract and retain a quality workforce. To begin to develop such a system, organizations assess the skills and knowledge they need; compare compensation against other public, private, or nonprofit entities competing for the same talent in a given locality; and classify positions along levels of responsibility. While one size does not fit all, organizations generally structure their competitive compensation systems to separate base salary—which all employees receive—from other special incentives, such as retention allowances or performance awards.

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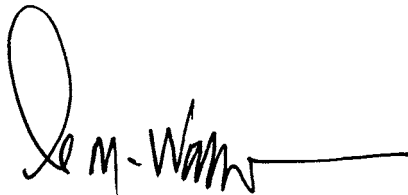
<sup>9</sup>U.S. General Accounting Office, *Federal Uniformed Police: Selected Data on Pay, Recruitment, and Retention at 13 Police Forces in the Washington, D.C., Metropolitan Area*, GAO-03-658 (Washington, D.C.: June 13, 2003).

<sup>10</sup>GAO-03-488.

Similar to many other aspects of DHS's proposal, important elements of the new pay system have not been determined. Under the proposed regulations, DHS, after coordination with OPM, may consider factors such as labor market conditions, among other things, in setting and adjusting ranges of basic pay for bands. We have reported that OPM's personnel demonstration projects have considered the labor market in determining how much to budget for pay increases.<sup>11</sup> For example, the Naval Sea Systems Command Warfare Center at Newport uses regional and industry salary information compiled by the American Association of Engineering Societies when determining how much to set aside for pay increases and awards. Specifically, in response to higher external engineer, scientist, and information technology personnel salaries, Newport funded pay increases and awards at a higher level in fiscal year 2001 than in fiscal year 2000.

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We are sending copies of this report to the Chair and Ranking Minority Member, Senate Committee on Governmental Affairs; the Chairman and Ranking Minority Member, House Committee on Government Reform; the Chairman and Ranking Minority Member, House Select Committee on Homeland Security; and other interested congressional parties. We will also send copies to the Secretary of the Department of Homeland Security and the Director of the Office of Personnel Management. Copies will be made available at no charge on the GAO Web site at <http://www.gao.gov>. For additional information on our work on federal agency transformation efforts and strategic human capital management, please contact me on (202) 512-5500 or J. Christopher Mihm, Managing Director, Strategic Issues, on (202) 512-6806 or at [mihmj@gao.gov](mailto:mihmj@gao.gov).

A handwritten signature in black ink, appearing to read "D M Walker", followed by a horizontal line extending to the right.

David M. Walker  
Comptroller General  
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<sup>11</sup>GAO-04-83.