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Testimony

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Committee on Government Reform, House of
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HUMAN CAPITAL

Increasing Agencies' Use of
New Hiring Flexibilities

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Highlights of [GAO-04-959T](#), a testimony before the Subcommittee on Civil Service and Agency Organization, Committee on Government Reform, House of Representatives

Why GAO Did This Study

Improving the federal hiring process is critical given that the executive branch hired nearly 95,000 new employees during fiscal year 2003 and significant hiring may continue over the next few years.

In May 2003, GAO issued a report highlighting several key problems in the federal hiring process. That report concluded that the process needed improvement and included recommendations to address the problems. Last month, GAO issued a follow-up to that report and testified before this subcommittee on the status of recent efforts to improve the federal hiring process. As part of this work, GAO also assessed the extent to which federal agencies are using two new hiring flexibilities: category rating and direct-hire authority. Category rating permits an agency manager to select a job candidate placed in a best-qualified category rather than being limited to three candidates under the “rule of three.” Direct-hire authority allows an agency to appoint individuals to positions without adherence to certain competitive examination requirements when there is a severe shortage of qualified candidates or a critical hiring need.

Today, GAO’s statement highlights the extent to which agencies are using the new hiring flexibilities, points out some likely reasons why agencies are not using or making greater use of them, and suggests approaches that can help increase their use.

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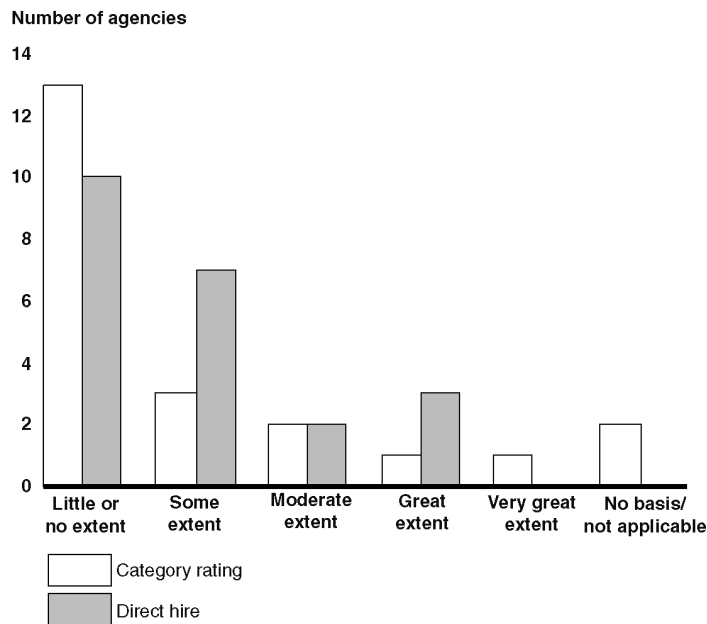
To view the full product, including the scope and methodology, click on the link above. For more information, contact J. Christopher Mihm at (202) 512-6806 or mihmj@gao.gov.

HUMAN CAPITAL

Increasing Agencies’ Use of New Hiring Flexibilities

What GAO Found

Although Congress, the Office of Personnel Management (OPM), and agencies have all recently undertaken efforts to help improve the federal hiring process, agencies report they are making limited use of the two new hiring flexibilities contained in the Homeland Security Act of 2002: category rating and direct-hire authority. These flexibilities could help agencies in expediting and controlling their hiring processes. GAO surveyed members of the interagency Chief Human Capital Officers Council (CHCO) to determine the extent to which their respective agencies were using the new hiring flexibilities and to identify barriers to greater use of these flexibilities. Frequently cited barriers included (1) the lack of OPM guidance for using the flexibilities, (2) the lack of agency policies and procedures for using the flexibilities, (3) the lack of flexibility in OPM rules and regulations, and (4) concern about possible inconsistencies in the implementation of the flexibilities within the department or agency.



Source: CHCO Council members’ responses to GAO questionnaire.

The federal government is now facing one of the most transformational changes to the civil service in half a century. Today’s challenge is to define the appropriate roles and day-to-day working relationships for OPM and individual agencies as they collaborate on developing innovative and more effective hiring systems. Moreover, human capital expertise within the agencies must be up to the challenge for this transformation to be successful and enduring.

Chairwoman Davis, Mr. Davis, and Members of the Subcommittee:

I appreciate the opportunity to be here today to continue the important discussion about efforts to improve the federal hiring process. As you are aware, federal agencies need effective hiring processes to compete for talented people in a highly competitive job market. Given that the executive branch hired nearly 95,000 new employees in fiscal year 2003 and may continue significant hiring over the next few years, improving the government's hiring process is critical. Over the years, there has been widespread recognition that the federal hiring process all too often does not meet the needs of agencies in achieving their missions, the needs of managers in filling positions with the right talent, nor the needs of applicants for a timely, efficient, transparent, and merit-based process.

In May 2003, we issued a report highlighting several key problems in the federal hiring process.¹ That report concluded that federal hiring needed improvements, and we made several recommendations to address problems with key parts of the hiring process. Specifically, we recommended that the Office of Personnel Management (OPM) take additional actions to assist agencies in strengthening the hiring process. Moreover, we reported that agencies must take greater responsibility for maximizing the efficiency and effectiveness of their individual hiring processes within the current statutory and regulatory framework that Congress and OPM have provided.

Last month, we issued a follow-up report, done at the request of the Chairwoman and Mr. Davis, that focused on recent governmentwide efforts to improve federal hiring, and we also provided testimony before this subcommittee summarizing the work done for that report.² Our report last month also addressed your request that we include information on the extent to which agencies were using two new hiring flexibilities contained in the Homeland Security Act of 2002.³ One of these hiring flexibilities,

¹U.S. General Accounting Office, *Human Capital: Opportunities to Improve Executive Agencies' Hiring Processes*, [GAO-03-450](#) (Washington, D.C.: May 30, 2003).

²U.S. General Accounting Office, *Human Capital: Additional Collaboration Between OPM and Agencies Is Key to Improved Federal Hiring*, [GAO-04-797](#) (Washington, D.C.: June 7, 2004) and U.S. General Accounting Office, *Human Capital: Status of Efforts to Improve Federal Hiring*, [GAO-04-796T](#) (Washington, D.C.: June 7, 2004).

³These hiring flexibilities are contained in the Chief Human Capital Officers Act of 2002, Title XIII of the Homeland Security Act of 2002. Pub. L. No. 107-296 (Nov. 25, 2002).

known as category rating, permits an agency to select a job candidate placed in a best-qualified category rather than being limited to three candidates under the “rule of three.” The other hiring flexibility, often referred to as direct hire, allows an agency to appoint people to positions without adherence to certain competitive examination requirements when there is a severe shortage of qualified candidates or a critical hiring need. Various agency officials from across the federal government often previously cited both of these hiring flexibilities as needed tools to help in improving the federal hiring process.

As agreed with the subcommittee, today I will highlight information that we gathered and analyzed about the extent to which agencies are using the new hiring flexibilities and point out some likely reasons why agencies are not using or making greater use of these new flexibilities. Our work to address these issues was based on interviews with officials from OPM and the interagency Chief Human Capital Officers (CHCO) Council, the results of our April 2004 survey of 22 of the 23 agency members serving on the CHCO Council, and our review of OPM documents as well as data from OPM’s central database of governmentwide personnel information. I also will suggest, based on our prior work, some approaches that agencies and OPM can employ to better use existing authorities.

Summary

In summary, our recent work found the following. Although Congress, OPM, and agencies have all undertaken efforts to help improve the federal hiring process, agencies report they are making limited use of the new hiring flexibilities: category rating and direct hire. In our April 2004 survey of CHCO Council members, 21 of the 22 respondents cited at least one barrier that they said prevented or hindered their agencies from using or making greater use of these hiring flexibilities. Frequently cited barriers included:

- the lack of OPM guidance for using the flexibilities,
- the lack of agency policies and procedures for using the flexibilities,
- the lack of flexibility in OPM rules and regulations, and
- concern about possible inconsistencies in the implementation of the flexibilities within the department or agency.

The follow-up report that we issued last month on the federal hiring process included no new recommendations. We did, however, underscore our prior recommendations on which we believe additional attention is needed. On the basis of our work, OPM's recent efforts and the CHCO Council members' views do not appear consistent, which suggests that defining the appropriate roles and day-to-day working relationships for OPM and individual agencies is essential as they further collaborate on developing innovative and more effective hiring systems. At the subcommittee hearing on hiring last month, OPM identified a wide range of efforts it has undertaken to assist agencies in using the new hiring authorities, including a number of important initiatives that took place after we surveyed CHCO Council members. Moreover, since that hearing, OPM has taken further action with the goal of helping to ensure that agencies are aware of the hiring flexibilities available to them and assisting agencies in taking full advantage of these available flexibilities.

Agencies Appear to Be Making Limited Use of New Hiring Flexibilities

Despite agency officials' past calls for hiring reform, agencies appear to be making limited use of category rating and direct-hire authority, the two new hiring flexibilities created by Congress in November 2002 and implemented by OPM in June 2003. Data on the actual use of these two hiring flexibilities are not readily available, but most CHCO Council members responding to our April 2004 survey indicated that their agencies are making little or no use of either flexibility. Indeed, all but one of the 22 CHCO Council members responding to our recent survey identified at least one barrier to using the new hiring flexibilities. OPM officials also confirmed with us that based on their contacts and communications with agencies, it appeared that the agencies were making limited use of the new hiring flexibilities. The limited use of category rating is somewhat unexpected given the views of human resources directors we interviewed 2 years ago. As noted in our May 2003 report, many agency human resources directors indicated that numerical rating and the rule of three were key obstacles in the hiring process. Category rating was authorized to address those concerns.

CHCO Council Members Offered Various Reasons for Limited Use of Category Rating

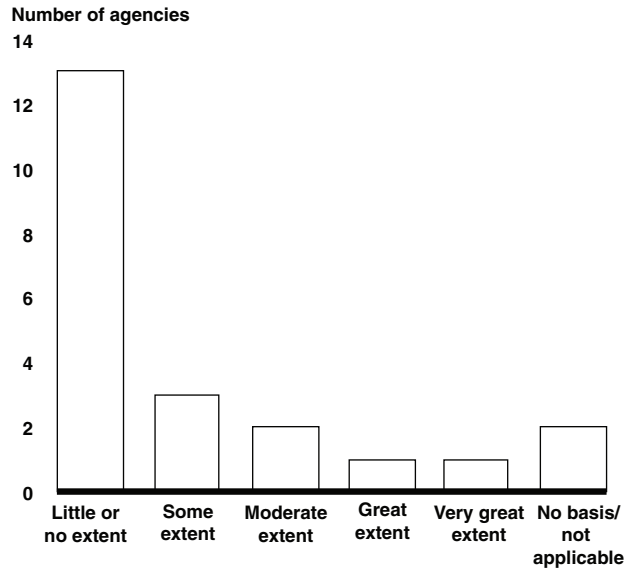
Category rating is an alternative rating and selection procedure that can provide agency managers with a larger pool of qualified job candidates from which to select than numerical ranking and the rule of three, while also protecting veterans' preference. Under category rating, job candidates are assigned to quality categories—such as “best qualified” or “highly

qualified”—following an assessment of their knowledge and skills against job-related criteria. The names of all candidates in the highest quality group are then sent to the selecting official and are available for selection. If the highest quality group contains a veteran, the veteran must be hired unless an objection to hiring the veteran is sustained by OPM. If the number of candidates falling into the highest quality group is inadequate, applicants from the next highest quality group of eligible candidates can also be referred to the agency manager for selection.

Given the lack of available data on the extent to which agencies were using the newly authorized category rating flexibility, we asked about this issue in our April 2004 survey of the CHCO Council members. A majority (13 of 22) of the officials responding to our survey said that their agencies were using category rating to “little or no extent” (see fig. 1). In narrative responses to our survey questions about category rating, several respondents said that their agencies were not using category rating but were considering options, developing procedures, or establishing pilot programs. For example, a CHCO Council member from a cabinet-level department said that his department had developed procedures for implementing category rating and had included this flexibility as a tool in the department’s hiring plan for fiscal year 2004. Another Council member representing a department said that the department had drafted a policy on the use of category rating and was establishing a program to pilot the use of this hiring flexibility with at least one occupation.

Figure 1: CHCO Council Members' Responses on the Extent to Which Their Agencies Are Using Category Rating

Question: To what extent is your department/agency using the newly authorized category rating flexibility in its hiring process?



Source: CHCO Council members' responses to GAO questionnaire.

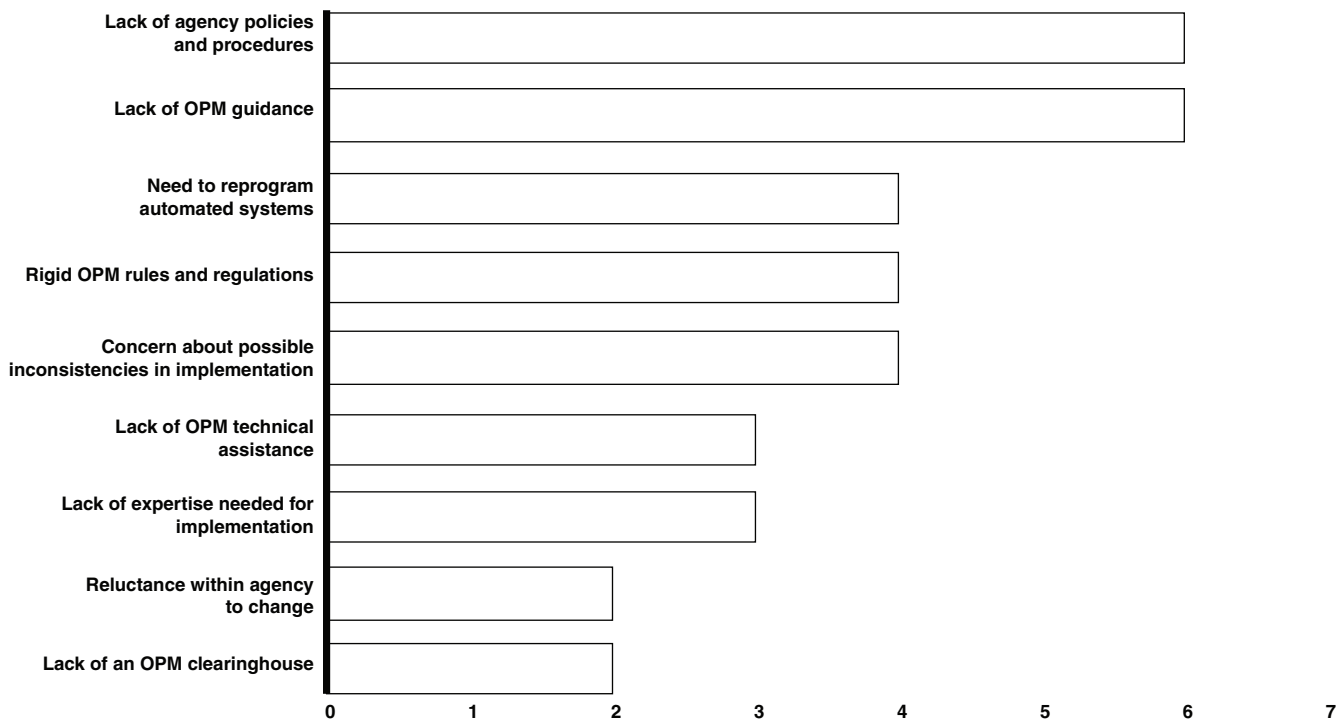
We also surveyed CHCO Council members about the most significant barriers, if any, preventing or hindering their agencies from using or making greater use of the newly authorized category rating flexibility in their hiring processes. Although the responses provided by the Council members varied (see fig. 2), the most frequently cited barriers to using category rating were (1) the lack of policies and procedures within the department or agency for using the flexibility, (2) the lack of OPM guidance for using the flexibility, (3) a need to reprogram the agency's automated systems to handle the new process, (4) rigid OPM rules and regulations, and (5) concern about possible inconsistencies in implementation. In narrative responses to our survey questions about category rating, a few CHCO Council members said that their agencies were not using or making greater use of category rating because of key stakeholders' lack of understanding about the application of veterans' preference and the Luevano consent

decree.⁴ One respondent said that each agency has had to research best practices and lessons learned prior to implementing this alternative rating system. Another Council member from a major department said that agencies need a governmentwide champion to advance the use of category rating in their hiring processes.

⁴ The Luevano consent decree is a 1981 agreement that settled a lawsuit alleging that a written test, Professional and Administrative Careers Examination (PACE), had an adverse impact on African Americans and Hispanics. See *Luevano v. Campbell*, 93 F.R.D. 68 (D.D.C. 1981). The consent decree called for the elimination of PACE and required replacing it with alternative examinations. In response to the consent decree, OPM developed the Administrative Careers with America examination. The consent decree also established two special hiring programs, Outstanding Scholar and Bilingual/Bicultural, for limited use in filling former PACE positions.

Figure 2: CHCO Council Members' Responses on the Most Significant Barriers Preventing or Hindering Their Agencies' Use of Category Rating

Question: What are the three most significant barriers, if any, preventing or hindering your department/agency from using or making greater use in its hiring process of the newly authorized category rating flexibility?



Source: CHCO Council members' responses to GAO questionnaire.

Note: Respondents could select up to three barriers.

In our April 2004 survey of CHCO Council members, we also asked about the extent to which OPM had assisted their agencies in using category rating and their level of satisfaction or dissatisfaction with that assistance. In narrative responses to our survey questions about category rating, a CHCO Council member representing a major department said, for example, that the department was reluctant to use category rating until OPM provided further guidance on use of the flexibility. Another respondent said that OPM responded to ad hoc questions related to the technical application of category rating, but generally defers to the agency to make the final determination. This respondent suggested that it would be beneficial for OPM to broadly address technical issues for agencies rather than on an ad hoc basis. Another respondent remarked that unresolved

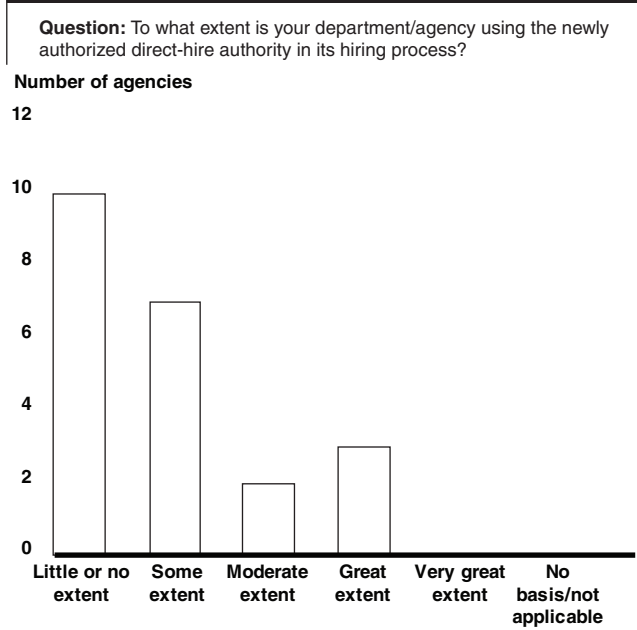
questions around the use of category rating may be common to all agencies and that OPM should provide additional implementation guidance in question and answer format.

CHCO Council Members Cited Several Barriers to Use of Direct-Hire Authority

Direct-hire authority allows agencies to appoint candidates directly to positions where OPM determines there is a severe shortage of candidates or a critical hiring need. When making appointments under the newly authorized direct-hire authority, agencies are not required to numerically rate and rank applicants nor apply the rule of three or veterans' preference. Agencies would still provide public notice of the vacancies and screen all applicants to ensure that they meet the basic qualification requirements of the position to be filled.

Given the lack of available data on the extent to which agencies were using the new direct-hire authority, we asked about this issue in our April 2004 survey of the CHCO Council members. A majority (17 of 22) of the officials responding to our survey said that their agencies were using direct hire to "some extent" or to "little or no extent" (see fig. 3). In narrative responses to our survey questions about direct hire, several respondents stated that their agencies had used direct-hire authority to fill various medical positions and small numbers of information technology security positions. Several respondents also said that their agencies had not yet used direct-hire authority but were assessing the options for doing so. For example, a CHCO Council member representing an independent agency said that the agency had not thus far decided if it still had positions in a shortage category and would make such a determination after completing its workforce analysis and strategic assessments. A Council member from a cabinet-level department said that it had determined a need for direct-hire authority for acquisition specialists and was developing a request to OPM. Another Council member representing a large department said that the department's components were aware of the newly authorized direct-hire authority but they had not yet identified situations for which they would request OPM's approval to use the authority.

Figure 3: CHCO Council Members' Responses on the Extent to Which Their Agencies Are Using Direct Hire

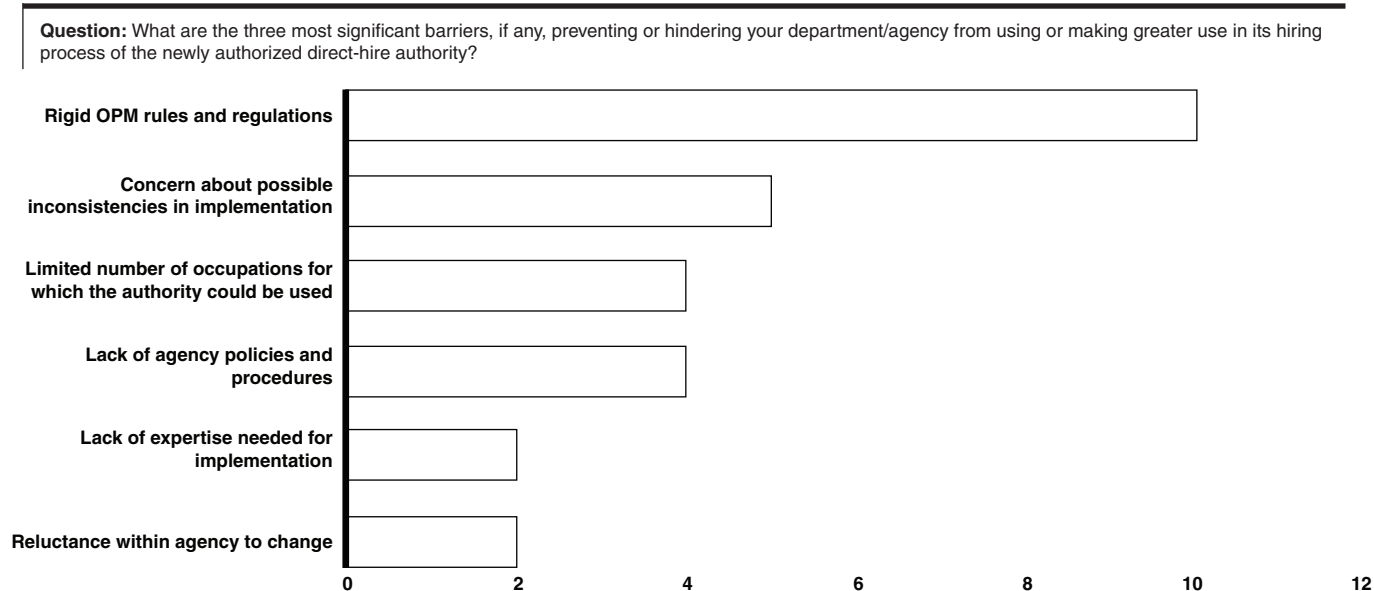


Source: CHCO Council members' responses to GAO questionnaire.

Additionally, we surveyed CHCO Council members about the most significant barriers, if any, preventing or hindering their agencies from using or making greater use of the newly authorized direct-hire authority in their hiring processes. Although the responses provided by the Council members varied (see fig. 4), the most frequently cited barriers to using direct hire were (1) rigid OPM rules and regulations, (2) concern about possible inconsistent implementation with the department or agency, (3) limited number of occupations for which the authority could be used, and (4) the lack of policies and procedures within the agency for using direct hire. In narrative responses to our survey questions about direct hire, a CHCO Council member representing a large department said, for example, that recently OPM officials informally told the department that OPM would likely disapprove a proposed request for direct-hire authority that the department desired for a specified occupation, even though at least one other agency had direct-hire authority for that same occupation. Another Council member representing an independent agency commented that the governmentwide direct-hire authorities that OPM has issued cover occupations generally not applicable to the agency or in which the agency

has an extremely limited number of positions. In contrast, a CHCO Council member representing a cabinet-level department responded that no barriers exist for using direct-hire authority.

Figure 4: CHCO Council Members' Responses on the Most Significant Barriers Preventing or Hindering Their Agencies' Use of Direct Hire



Source: CHCO Council members' responses to GAO questionnaire.

Note: Respondents could select up to three barriers.

In our April 2004 survey of CHCO Council members, we also asked about the extent to which OPM had assisted their agencies in using direct hire and their level of satisfaction or dissatisfaction with that assistance. In narrative responses to our survey questions about direct hire, one respondent from a cabinet-level department said, for example, that the department had attempted to use direct-hire authority for information technology security positions but received inconsistent guidance on the application of veterans' preference from OPM. A Council member from a large department said that OPM should delegate authority to approve direct hire requests to the agencies as permitted by the Homeland Security Act of 2002. A respondent from another department said that the department had surveyed its components to determine if it should petition OPM for direct-hire authority, but that most of the positions identified to date could not be justified based on the OPM criteria.

Moving Forward to Improve Federal Hiring

In December 2002, we issued a comprehensive report on the effective use of human capital flexibilities in the federal government, including flexibilities related to hiring.⁵ We reported that agencies were often not maximizing their use of the human capital flexibilities already available to them, and we identified key practices that agencies can implement to effectively use such flexibilities (see fig. 5). For example, agencies need to plan strategically and make targeted investments for how they will use and fund these authorities. As we emphasized in our report, the insufficient and ineffective use of flexibilities can significantly hinder the ability of federal agencies to recruit, hire, retain, and manage their human capital.

Figure 5: Key Practices for Effective Use of Human Capital Flexibilities

Plan strategically and make targeted investments	<ul style="list-style-type: none"> ● Obtain agency leadership commitment ● Determine agency workforce needs using fact-based analysis ● Develop strategies that employ appropriate flexibilities to meet workforce needs ● Make appropriate funding available
Ensure stakeholder input in developing policies and procedures	<ul style="list-style-type: none"> ● Engage the human capital office ● Engage agency managers and supervisors ● Involve employees and unions ● Use input to establish clear, documented, and transparent policies and procedures
Educate managers and employees on the availability and use of flexibilities	<ul style="list-style-type: none"> ● Train human capital staff ● Educate agency managers and supervisors on existence and use of flexibilities ● Inform employees of procedures and rights
Streamline and improve administrative processes	<ul style="list-style-type: none"> ● Ascertain the source of existing requirements ● Reevaluate administrative approval processes for greater efficiency ● Replicate proven successes of others
Build transparency and accountability into the system	<ul style="list-style-type: none"> ● Delegate authority to use flexibilities to appropriate levels within the agency ● Hold managers and supervisors directly accountable ● Apply policies and procedures consistently
Change the organizational culture	<ul style="list-style-type: none"> ● Ensure involvement of senior human capital managers in key decision-making processes ● Encourage greater acceptance of prudent risk taking and organizational change ● Recognize differences in individual job performance and competencies

Source: GAO.

⁵ U.S. General Accounting Office, *Human Capital: Effective Use of Flexibilities Can Assist Agencies in Managing Their Workforces*, [GAO-03-2](#) (Washington, D.C.: Dec. 6, 2002).

In a report we issued in May 2003 related to OPM's role in assisting federal agencies in using human capital flexibilities, we recommended that OPM work with and through the new CHCO Council to more thoroughly research, compile, and analyze information on the effective and innovative use of these flexibilities.⁶ We noted that sharing information about when, where, and how the broad range of personnel flexibilities is being used, and should be used, could help agencies meet their human capital management challenges. As we recently testified, OPM and agencies need to continue to work together to improve the hiring process, and the CHCO Council should be a key vehicle for this needed collaboration.⁷ Such communication and collaboration is especially important given the apparent widely different views between OPM and at least some agencies regarding the amount and adequacy of guidance and assistance that OPM has provided. In order for this collaboration to be effective, agencies need to provide OPM with timely and comprehensive information about their experiences in using various approaches and flexibilities to improve their hiring processes. OPM—working through the CHCO Council—can, in turn, help by being a facilitator in the collection and exchange of information about agencies' effective practices and successful approaches to improved hiring. Such additional collaboration between OPM and agencies could go a long way in helping the government as a whole and individual agencies to improve federal hiring efforts.

Since our June 2004 testimony on these issues, OPM has taken some additional actions in providing further guidance to agencies in using hiring flexibilities. For example, on June 15, 2004, OPM issued final regulations on the use of category rating and direct-hire authority, providing some clarification in response to various comments it had received on interim regulations. On June 29, 2004, OPM conducted a training symposium to provide federal agencies with further instruction and information on ways to improve the quality and speed of the hiring process. According to OPM, 230 officials from over 30 federal agencies attended this training session and were encouraged to make better use of available flexibilities to improve the hiring process. In addition, OPM recently hosted a briefing to

⁶U.S. General Accounting Office, *Human Capital: OPM Can Better Assist Agencies in Using Personnel Flexibilities*, [GAO-03-428](#) (Washington, D.C.: May 9, 2003).

⁷U.S. General Accounting Office, *Human Capital: Observations on Agencies' Implementation of the Chief Human Capital Officers Act*, [GAO-04-800T](#) (Washington, D.C.: May 18, 2004).

inform various interest groups about the results of a survey that OPM conducted on federal hiring.

In conclusion, the federal government is now facing one of the most transformational changes to the civil service in half a century. This change is illustrated in the new personnel systems for the Department of Homeland Security and the Department of Defense and in new hiring flexibilities provided to all agencies. For this transformation to be successful and enduring, human capital expertise within the agencies must be up to the challenge.

Madam Chairwoman and Mr. Davis, this completes my statement. I would be pleased to respond to any questions that you might have.

Contacts and Acknowledgments

For further information on this testimony, please contact J. Christopher Mihm, Managing Director, Strategic Issues, (202) 512-6806 or at mihmj@gao.gov. Individuals making key contributions to this testimony include K. Scott Derrick and Trina Lewis.

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