

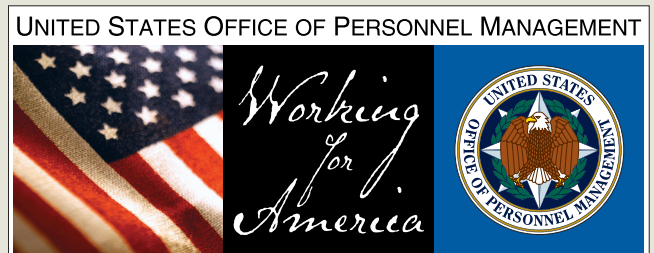


UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

# ALTERNATIVE PERSONNEL SYSTEMS IN THE FEDERAL GOVERNMENT

A STATUS REPORT ON DEMONSTRATION  
PROJECTS AND OTHER PERFORMANCE-BASED  
PAY SYSTEMS

December 2008





# Foreword

December 2008

This is the fourth-annual status report on alternative personnel systems in the Federal Government issued by the U.S. Office of Personnel Management (OPM). The first report, *Alternative Personnel Systems in Practice and a Guide to the Future*, issued in October 2005, summarized the 25 years of successful experience in alternative personnel systems.

The second report, released in December 2006, *A Status Report on Personnel Demonstration Projects in the Federal Government*, focused on then-active currently active demonstration projects and their interventions, and provided an update on their progress. The 2007 report, *Alternative Personnel Systems in the Federal Government - A Status Report on Demonstration Projects and Other Performance-Based Pay Systems*, updated both the 2005 and 2006 reports. These reports can be found at <http://www.opm.gov/aps/reports/index.asp>.

This report resumes where the 2007 report ended and provides the current status of performance-based pay systems in the Federal Government. It is recommended this report be read in concert with the prior year reports to obtain a complete historical perspective.

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## *Executive Summary*

This report, *A Status Report on Demonstration Projects and Other Performance-Based Pay Systems*, is the second comprehensive update on demonstration projects and other performance-based pay systems in the Federal Government. It begins with a brief introduction of the purpose of the report, background information on authorities for agency implementation of alternative personnel systems, and OPM's authority and role in the various projects. It continues with a description of the current status of each performance-based pay system, which together cover over 363,000 Federal employees. The report concludes with employee survey responses to questions asked on the Federal Human Capital Survey (FHCS) or annual employee surveys that have been identified as key indicators of successful alternative personnel systems.

Several significant changes have occurred in 2008:

- The number of employees included in the Department of Defense (DoD) National Security Personnel System (NSPS) increased by over 60,000
- The Department of Commerce (Various Components) demonstration project was extended indefinitely by Public Law 110-161
- DoD is in the process of converting employees in the Navy "China Lake" demonstration project and many employees currently included in their Acquisition Demonstration Project (AcqDemo) to NSPS
- The Department of Energy's National Nuclear Security Administration (NNSA) implemented a new demonstration project converting slightly over 2,000 employees
- The Intelligence Community has begun implementation of its 17 component-wide pay modernization efforts
- The Commodity Futures Trading Commission (CFTC) completed the phased implementation of its performance-based pay system

Other agencies, including the Department of Commerce, National Institute of Standards and Technology (NIST); Government Accountability Office (GAO); Department of Homeland Security, Transportation Security Administration (TSA); National Credit Union Administration (NCUA); Federal Deposit Insurance Corporation (FDIC); and the Securities and Exchange Commission (SEC) have implemented modifications to their alternative personnel systems in 2008.

Future demonstration projects have been proposed for the Department of Education's Office of Federal Student Aid (ED/FSA), the Department of Agriculture's Food Safety and Inspection Service (USDA/FSIS) and the Department of Veterans Affairs' Veterans Health Administration (VA/VHA).

While gathering information for this status report, OPM queried agencies mentioned in this report about various practices, processes and policies OPM has identified as key attributes to successful alternative personnel systems. The attributes are included in the

evaluation framework published by OPM in 2008 in the [Alternative Personnel Systems Objectives-Based Assessment Framework Handbook](#). Commonalities across many, if not most, of the agencies queried include:

- Performance expectations are aligned with mission results
- Transparency – most agencies reported they share information about their performance-based pay systems, frequently asked questions, and aggregate results of performance evaluations on intranet websites
- Many agencies have increased their employee and union involvement in reviews of, and modification to, their performance-based systems and have indicated positive results
- Employee survey results and other forms of employee input are being reviewed and in many cases are driving desired modifications to the systems and/or agency processes and procedures
- Many agencies have established oversight entities to ensure fairness and consistency across their systems
- Many agencies reported the flexibilities they have in setting initial pay and rewarding high-performers have positively affected their ability to recruit and retain a high-quality workforce.



## ***Introduction***

### ***Purpose of the Report***

The Federal Government has more than 28 years of experience with various performance-based pay systems implemented under authority of chapter 47 of title 5, United States Code or through independent legislation. While OPM has different levels of oversight authority for various alternative personnel systems, it maintains overall responsibility for the strategic management of human capital across the Federal Government. This report provides a Governmentwide view of the current status of performance-based pay systems and, to the extent data is available, provides a Governmentwide view of employee perceptions on key attributes of these systems.

This report builds upon reports OPM published over the last three years:

- October 2005 - *Alternative Personnel Systems in Practice and a Guide to the Future* summarized the first 25 years of experience with alternative personnel systems
- December 2006 - *A Status Report on Personnel Demonstration Projects in the Federal Government* summarized the Government's experience with active demonstration projects and provided an update on their progress
- December 2007 - *Alternative Personnel Systems in the Federal Government: A Status Report on Demonstration Projects and Other Performance-Based Pay Systems* provided updates to the 2005 and 2006 reports

### ***Background***

An Alternative Personnel System (APS) may be established under discrete legislation for an agency or community of agencies, or under the demonstration project provisions of chapter 47 of title 5, United States Code. All demonstration projects are considered alternative personnel systems; however, not all APSs are demonstration projects.

APSs can cover any number of aspects of human resources management; however, the current emphasis is on moving away from traditional classification and pay systems and moving toward alternative systems where market rates and performance are central drivers of pay. Agencies seek to use APSs to implement performance-based pay systems (PPS) to improve the strategic management of their human capital and more effectively compete for and retain talent.

There are currently over 363,000 Federal employees covered by PPSs, which that fall into three categories:

- Demonstration Projects: Chapter 47 of title 5, United States Code, authorizes OPM to establish and evaluate personnel demonstration projects, either directly or through agreement with one or more Federal agencies and other public and private organizations. Chapter 47 defines a demonstration project as “a project conducted by OPM, or under its supervision, to determine whether a specified change in personnel management policies or procedures would result in improved Federal personnel management.”<sup>1</sup> Chapter 47 enables the Government to test alternative, merit-based approaches to specific personnel management tasks and processes before making them more generally applicable.
- Independent Systems: These agency-specific systems are established under independent authority granted by Congress either in a particular agency’s authorizing legislation or as a specific authority to implement a separate compensation system.
- Executive Pay Systems: These Governmentwide performance-based pay systems require all pay increases to be driven by measured performance against established objectives and expected achievements.

### ***OPM’s Role***

The Chief Human Capital Officers Act of 2002 charges OPM with improving the strategic human capital management of the Federal Government’s civilian workforce, including associated planning and evaluation efforts. In meeting this obligation, OPM coordinates with agencies on human capital management transformation efforts, assesses agency efforts in implementing new human capital systems and programs, and leverages program outcomes for future Governmentwide human capital transformation. These overarching activities apply to alternative personnel systems, particularly performance-based pay systems. Thus, OPM has the responsibility to oversee the progress of these systems, to review or conduct evaluations, and to use those results to improve existing human capital management policies, programs, and operations.

#### Demonstration Projects:

OPM plays a critical role in developing and overseeing alternative personnel systems. Since receiving congressional authority over demonstration projects, OPM has actively supported the design, implementation and evaluation of 18 projects. All but four of these projects have incorporated a performance-based pay component. OPM approves each project after carefully considering the proposed design for conceptual and technical soundness. Comprehensive evaluation plans are required, as well as periodic evaluations and reports. These evaluations have been a rich source of lessons learned and best practices that have been used extensively by agencies in

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<sup>1</sup> section 4701 of title 5, United States Code.

developing proposals for new demonstration projects. The employee perception data included in demonstration project evaluations also provide for comparisons over time as systems mature.

To assist agencies in conducting their periodic evaluations, OPM has developed the [APS Objectives-Based Assessment Framework Handbook](#). It includes standards for evaluating APSs that establish new pay systems and related interventions, including demonstration projects. The Framework was first used to conduct the 2007 assessments of the new Department of Homeland Security APS and the Department of Defense APS – the National Security Personnel System (NSPS).

### Independent Systems:

Even where Congress has granted an agency independent authority, OPM still plays a key role. OPM maintains broad oversight and accountability responsibilities, especially when alternatives to title 5 provisions are being used. When OPM observes or foresees difficulties in implementing a system feature, it notifies the agency and offers assistance in making appropriate design corrections or otherwise addresses emerging issues. Congress also may require OPM to play a role in the establishment of alternative personnel systems. For example, under the Internal Revenue Service broad-banding authority, Congress required OPM to issue criteria the IRS had to follow when they established their broad-band pay system.

OPM's leadership role is essential to the success of APSs. Specifically, OPM's institutional knowledge of performance-based pay systems across the Government helps agencies be more successful in implementing their APSs by providing lessons learned and best practices - helping them avoid unintended consequences.

### *Scope*

All current Federal alternative personnel systems incorporating a performance-based pay system are covered in this report (see Table 1). For the purposes of the report, a pay system is defined as "performance-based" if the system provides at least two levels of performance-based pay increases for employees rated *Fully Successful* or higher under a regular pay adjustment cycle. Not included are systems that provide the opportunity for higher base pay increases for top performers only on an irregular or *ad hoc* basis, such as the opportunity to receive quality step increases under the GS.

Other alternative pay systems apply to specialized groups of Federal employees (e.g., Department of Veterans Affairs title 38 pay system and DoD Dependent Schools); however these systems are not included in this report because they do not meet OPM's definition of "performance-based" pay systems.

Although each of the alternative pay systems listed in Table 1 are unique in some respects, most systems share common design features. Among these are:

- Open ranges of pay rates, rather than fixed steps
- Pay increases are usually contingent on a Fully Successful (or equivalent) employee performance evaluation
- Pay increases that move employees through their pay ranges are directly - and differentially - linked to performance assessments, rather than the passage of time;
- Position classification is streamlined
- Pay ranges cover more broadly defined levels of work than the narrow GS grades

Overall, these PPSs emphasize and reward employees' performance and contribution to the agency's mission.<sup>2</sup> Employees generally receive an annual pay increase commensurate with their level of performance – the higher the level of performance, the higher the annual pay increase. Annual pay increases range from 0 percent for low performers to as much as 20 percent for top performers.

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<sup>2</sup> The Security and Exchange Commission is undergoing an incremental modification to their performance evaluation and performance-based pay system. In May 2008, SEC reached an agreement with the National Treasury Employee Union to temporarily separate merit pay from their performance management system. However, they are currently implementing a new five-level performance management system which will support distinctions in pay based on performance.

**Table 1: Alternative Pay System Profiles**

	Start Date	Total Employees	Bargaining Unit Employees	Non-Supervisory/Non-Bargaining Unit Employees	Supervisors/Managers
<b>Demonstration Projects (Former and Active)</b>		<b>43,676</b>			
Department of Defense (DoD) - Navy "China Lake"*	1980	3,843	X*	X	X
Commerce – National Institute of Standards and Technology (NIST)*	1988	2,700	30	2,366	304
Commerce – Various Components*	1998	7,440	964	5,493	983
DoD – Acquisition Workforce (DoD AcqDemo)*	1999	2,267	2,140	40	87
<b>DoD Science and Technology Laboratories (S&amp;T Labs)</b>					
– Air Force Research Laboratory (AFRL)*	1997	2,631	137	2,029	465
– Army Aviation and Missile R/D/E Center (AMRDEC)*	1997	2,623	2,246	138	239
– Army Research Laboratory (ARL)*	1998	1,868	492	1,192	184
– Army Medical Research & Materiel Command (MRMC)*	1998	1,345	153	908	284
– Naval Sea Systems Command Warfare Centers (NAVSEA)*	1998	12,701	2,813	8,418	1,470
– Army Engineer R/D Center (ERDC)*	1998	1,528	353	1,068	107
– Naval Research Laboratory (NRL)*	1999	2,322	0	2,111	211
– Communications-Electronics Research, Development, and Engineering Center (CERDEC) (previously CECOM)*	2002	1,833	1,273	210	350
Energy – National Nuclear Security Administration (NNSA)*	2008	2,093		1,778	315
<b>Independent Systems</b>		<b>311,687</b>			
Transportation - Federal Aviation Administration (FAA)*	1996	37,020	26,563	7,771	2,686
Treasury - Internal Revenue Service (IRS)*	2001	8,176			8,176
Government Accountability Office (GAO)*	2002	2,746	1,847	399	500
Homeland Security - Transportation Security Administration (TSA)	2006	61,475		53,779	7,696
Treasury - Alcohol and Tobacco Tax and Trade Bureau (TTB)*	2003	127	83	7	37
Justice - Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)*	2001	279	121	102	56
Intelligence Community (IC)	2006	Data not releasable			
National Geospatial Intelligence Agency (NGA)	1998	Data not releasable			
DoD – National Security Personnel System (NSPS)*	2004	187,000		X	X
<b>Financial Regulatory Agencies</b>		<b>14,864</b>			
Treasury - Office of Thrift Supervision (OTS)*	1989	1,015	154	679	182
Treasury - Office of the Comptroller of the Currency (OCC)*	1991	3,129	2,525	344	260
National Credit Union Administration (NCUA)*	1992	904	762	46	96
Federal Deposit Insurance Corporation (FDIC)*	2003	5,021	3,513	897	611
Farm Credit Administration (FCA)*	1993	264		221	43
Commodity Futures Trading Commission (CFTC)*	2006	500	144	261	95
Federal Housing Finance Board (FHFB)*	1995	136		113	23
Office of Federal Housing Enterprise Oversight (OFHEO)*	1992	259		213	46
Securities and Exchange Commission (SEC)*	2002	3,636	X	X	X
<b>Governmentwide Executive Pay</b>		<b>8,305</b>			
Senior Executive Service (SES)	2004	7,338	N/A	N/A	N/A
Senior Foreign Service (SFS)*	2004	967	N/A	N/A	N/A
<b>Grand Total (Approximate)</b>		<b>363,668</b>			
"X" – data not available * - data provided by the agency					

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## *Alternative Personnel Systems Profiles*

Various agencies within the Federal Government have a wide range of experience with performance-based pay systems (PPSs) spanning a period of almost 30 years. The number of employees included in PPSs has increased steadily over that period, with an increase in 2008 of more than 60,000 employees.<sup>3</sup> This increase is primarily attributable to growth of the Department of Defense National Security Personnel System (NSPS); however, it also includes a new demonstration project implemented in the Department of Energy's National Nuclear Security Administration (NNSA). With these additions, there currently are over 363,000 employees covered (see Table 1), compared to 298,000 reported in 2007.

This section provides information on the different types of alternative personnel systems including completed demonstration projects, former demonstration projects (now permanent Alternative Personnel Systems (APSs)), independent systems, and Governmentwide executive pay systems. It also provides an update on the status of most of those individual systems. The information provided in this report was derived from various sources, including information provided by agencies, published reports and other public information.

### *Demonstration Projects*

Since 1980, OPM has approved 18 demonstration projects (demos): four were completed and four were made permanent based on successful evaluation results. The DoD Civilian Acquisition Workforce Demo (AcqDemo), eight DoD Lab Demos, and the National Nuclear Security Administration (NNSA) Demo are currently active.<sup>4</sup>

### **Completed Demonstration Projects**

- Federal Aviation Administration (FAA) Airway Science Curriculum: The FAA Airway Science Curriculum Demo ended in March 1991
- Federal Bureau of Investigation (FBI) New York Office: The FBI Demo expired in October 1993<sup>5</sup>
- Pacer Share: The Pacer Share Demo expired in February 1993
- Federal Aviation Administration: The FAA Demo expired in June 1994

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<sup>3</sup> The number of employees in DoD's NSPS increased by over 60,000; however, this number does not include personnel in National Geospatial Intelligence Agency (NGA) previously listed as approximately 10,000 employees.

<sup>4</sup> "Completed" refers to demonstration projects that have ended. "Former" refers to projects that have been permanently implemented as a result of legislation. "Active" projects are ongoing but have not been permanently implemented.

<sup>5</sup> The FBI Demo was not a chapter 47 demonstration project but was authorized by the Intelligence Authorization Act for Fiscal Year 1988 (P.L. 100-178). This legislation required FBI and OPM to "conduct a study to ascertain the effect on recruitment, retention, and operations of employees of the New York Field Division of the FBI caused by the unusual living expenses associated with such employment."

## **Former Demonstration Projects (Now Permanent Alternative Personnel Systems)**

- Navy China Lake: In 1994, the expiration date for the Navy China Lake Demo was removed by section 342 of Public Law (P.L.) 103-337
- Commerce - National Institute of Standards and Technology (NIST): In 1996, the NIST Demo was extended indefinitely by section 10 of P.L. 104-113
- Commerce – various components: In 2007, the commerce Demo was extended indefinitely by P.L. 110-161 (section 108 of the Department of Commerce Appropriations Act, 2008)
- U.S. Department of Agriculture: In 1998, section 749 of P.L. 105-277 permitted the Agriculture Demo to continue indefinitely

These former demonstration projects are now permanent alternative personnel systems managed independently by their respective agencies. They no longer count toward the 10-project limit for demos managed by OPM and the agencies involved are no longer required to conduct evaluations. Agencies may make minor procedural modifications to their permanent systems; however, if they wish to make a major modification, the modification could constitute a new demonstration project under the provisions of chapter 47 of title 5 and require OPM approval prior to implementation.

### **Navy China Lake**

Throughout the fall of 2008, DoD began to convert all employees in this alternative personnel system, the first project implemented under chapter 47, to its National Security Personnel System (NSPS). As the completion of the conversion, slightly more than 3,800 additional employees will be included in DoD's NSPS. Table 1 lists these employees under the Navy China Lake APS pending completion of the conversion.

### **Commerce National Institute of Standards and Technology (NIST)**

The NIST APS was first implemented in 1988 as a five-year demonstration project. The demonstration project, originally set to expire in 1992, was extended indefinitely by Congress in March 1996.

Prior to becoming a permanent APS, the project plan was modified twice to clarify certain NIST authorities; first in 1989 and again in 1990. The project plan and subsequent amendments were consolidated into one document and re-published in the Federal Register on October 21, 1997. The APS was amended again in May 2005 and July 2008 to modify the existing performance management system.<sup>6</sup>

The need to modify the performance management system surfaced in various employee and stakeholder venues. A work group of internal NIST stakeholders was tasked with evaluating feedback and developing responsive modifications. The resulting adjustments were incorporated

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<sup>6</sup> Federal Register, Vol. 73, No. 136, 40500-40502 (July 15, 2008)



into the latest modification that focuses on refining the link between pay and performance by introducing a seventh level to NIST's six-level performance rating system to permit an additional performance distinction.

Specifically, from highest to lowest the 7 performance ratings are now: Exceptional Contributor, Superior Contributor, Meritorious Contributor (*added*), Significant Contributor, Contributor, Marginal Contributor, and Unsatisfactory. Performance pay increases continue to be linked directly to the top four performance ratings, and an employee who receives one of the top four ratings also receives the full annual basic pay adjustment (general and locality pay increases) and is eligible for a discretionary bonus. Employees rated Contributor receive the basic pay adjustment and are eligible for a discretionary bonus, but do not receive a performance pay increase. Employees rated Marginal Contributor or Unsatisfactory do not receive a performance pay increase, discretionary bonus, or annual basic pay adjustment.

### **Department of Commerce (Various Components)**

In December 2007, the Department of Commerce demonstration project was extended indefinitely by Public Law 110-161 (section 108 of the Department of Commerce Appropriations Act 2008). The APS covers employees in the following organizations: Bureau of Economic Analysis, Institute for Telecommunication Sciences, six components of its Office of the Chief Financial Officer/Assistant Secretary for Administration, and units of the National Oceanic and Atmospheric Administration (NOAA). This APS currently includes slightly over 7,500 employees.<sup>7</sup>

For several years, Commerce conducted periodic evaluations required under chapter 47 of title 5. The final – 9<sup>th</sup> year report - was issued in April 2008.<sup>8</sup> The report indicated the interventions that had been effective in past years continued to demonstrate positive results. The interventions included pay-for-performance, the use of flexible entry salaries, and more flexibility in setting pay upon promotion. Other positive trends were:

- Increased favorability toward the demonstration project over time. Favorable responses were moderately low at the beginning but gained momentum after two-three years and accelerated upward, leveling off between a 60-70 percent acceptance range
- Increased positive employee perception that their performance ratings accurately reflected their performance, although there were challenges with understanding and accepting the new performance management system at the beginning of implementation
- There continued to be a positive link between pay and performance

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<sup>7</sup> P.L. 110-16, Sec. 108 enables the Department of Commerce, pursuant to 5 U.S.C. 4703, to involve more than 5,000 individuals

allows Commerce to include more than 5,000 employees

<sup>8</sup> Department of Commerce, Personnel Management Demonstration Project Evaluation – Year Nine Report, Booz/Allen/Hamilton, April 15, 2008

- A greater percentage of employees in the demonstration project trusted their supervisors and believed job competition was fair, compared to those in the evaluation control group
- Objective data indicated employee turnover was greater among lower performers than higher performers

A few key lessons learned addressed in the nine-year/final report include:

1. The need for increased transparency – objective data show performance scores are a consistent predictor of performance-based pay increases; however, survey results indicate only 50 percent of respondents indicate pay raises depended on how you perform
2. The need to develop and execute formal communication strategies to include intent, practices, and performance metrics, with different communication strategies for multiple, diverse audiences
3. The development of a “dashboard” to share key annual performance results

Although formal evaluation reports no longer are required by OPM, Commerce will continue their oversight of this APS, paying close attention to employee perception trends.

### **Active Demonstration Projects**

- DoD Civilian Acquisition Workforce Demonstration Project (AcqDemo)
- DoD Science and Technology Reinvention Lab Demo Program (Lab Demos)
- Department of Energy National Nuclear Security Administration (NNSA) Demonstration Project

### **DoD AcqDemo**

As noted in the 2007 status report, most non-bargaining unit employees under AcqDemo have been converted to DoD’s National Security Personnel System (NSPS). The number of employees covered under AcqDemo has been reduced from approximately 11,450 employees in 2006 to just over 2,200 in 2008 – the majority remaining in the system are bargaining unit employees.

While the number of employees covered under AcqDemo has been reduced significantly, the Project Office has been maintained to provide services to participating organizations, including operation and maintenance of automated employee appraisal and pay systems and interface with the Defense Civilian Personnel Data System; technical support of pay pools and pay pool managers; policy and procedure interpretation and assistance; and assistance to Component personnel on the use of automated appraisal- and pay-system software. In addition, the Project Office continues to coordinate with and assist the NSPS Program Executive Office in the transition process.

## DoD Lab Demos

The National Defense Authorization Act (NDAA) for fiscal year (FY) 1995 authorized the Secretary of Defense to conduct personnel demonstration projects at DoD laboratories designated as Science and Technology Reinvention Laboratories (STRs).<sup>9</sup> In 2001, the Secretary of Defense was given sole responsibility for approving and conducting these projects.<sup>10</sup>

Section 1107 of NDAA for FY 2008 now requires the Secretary of Defense to take all necessary actions to fully implement and use the authorities provided under section 342(b) as amended. This includes executing a process and implementation plan to fully utilize the authorities to enhance the performance of the missions of the demonstration program laboratories. Further, subsection 1107(c) of NDAA for FY 2008 authorizes that any flexibility available to any demonstration laboratory shall be available for use at any other laboratory as enumerated in subsection 9902(c)(2) of title 5, United States Code. Of the 11 laboratories listed in subsection 9902(c)(2), eight have active demonstration projects:

- Air Force Research Laboratory (AFRL)
- Army Aviation and Missile Research, Development and Engineering Center (AMRDEC)
- Army Research Laboratory (ARL)
- Army Medical Research and Materiel Command (MRMC)
- Naval Sea Systems Command Warfare Centers (NAVSEA)
- Army Engineer Research & Development Center (ERDC)
- Naval Research Laboratory (NRL)
- Communications-Electronics Research, Development, and Engineering Command (CECOM) - (reorganization changed designation to Communications-Electronics Research, Development, and Engineering Center (CERDEC))

While the remaining three laboratories (Soldier and Biological Chemical Command (reorganization changed designation to Natick Soldier Research, Development and Engineering Center (NSRDEC); Edgewood Chemical Biological Center (ECBC) under the United States Army Research, Development and Engineering Command; and Office of Naval Research (ONR)) do not have personnel management demonstration projects at this time, on December 2, 2008, a Federal Register notice was posted for NSRDEC and ECBC to adopt the Personnel Management Demonstration project designed by the Army's Communications-Electronics Research, Development, and Engineering Center.<sup>11</sup>

Although DoD plans to convert many of its civilian employees to the National Security Personnel System (NSPS), section 9902(c)(1) of title 5 United States Code, delays application of NSPS to laboratories under section 9902(c)(2) until October 1, 2011. Application of NSPS on or after

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<sup>9</sup> NDAA FY 1995, Section 342(b); amended by section 1109 of NDAA for FY 2000; and Section 1114 of NDAA for FY 2001

<sup>10</sup> NDAA 2001, Section 1114

<sup>11</sup> *Federal Register*, Vol 73, No. 232, 73248-73252 (December 2, 2008).

October 1, 2011 will only occur if the Secretary of Defense determines the flexibilities provided by NSPS are greater than the flexibilities provided to the laboratories included under this demonstration project.

### **Department of Energy National Nuclear Security Administration (NNSA) Demonstration Project**

In December 2007, OPM published the final Federal Register notice (FRN) announcing a five-year, performance-based pay demonstration project at the Department of Energy's National Nuclear Security Administration (NNSA).<sup>12</sup> The project modifies the General Schedule classification and pay system by establishing broad bands and providing for annual pay adjustments based on performance. NNSA implemented the project on March 16, 2008.

The project covers all NNSA GS non-bargaining unit employees (currently just over 2,000). The primary goals of the project are to:

- Improve hiring of high quality employees through the judicious use of higher entry salaries
- Motivate and retain staff by providing faster pay progression for high-performing employees
- Make pay increases performance-sensitive so that only employees receiving a Fully Successful (known as Fully Meets Expectations in NNSA) or higher performance rating receive pay adjustments, with the best performers receiving the largest pay increase
- Increase the efficiency of administering the position classification system

### **Pending Demonstration Projects**

In December 2007, OPM approved a preliminary FRN for a performance-based pay demonstration project at the Department of Education's Office of Federal Student Aid (FSA).<sup>13</sup> The notice was published on December 14, 2007. The number of employees projected to be covered under this demonstration project, if final approval is obtained from OPM, is 105.

In 2008, OPM approved preliminary notices for performance-based pay demonstration projects at the U.S. Department of Agriculture's Food Safety and Inspection Service (USDA/FSIS) and the Department of Veterans Affairs' Veterans Health Administration (VA/VHA).

- The USDA/FSIS demo proposal was announced in the *Federal Register* on May 9, 2008.<sup>14</sup> If approved, the project will include approximately 2,800 GS non-bargaining unit employees in all program areas of FSIS, including those in the headquarters and field operations.

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<sup>12</sup> *Federal Register*, Vol 72, No. 245, 72776-72802 (December 21, 2007).

<sup>13</sup> *Federal Register* Vol. 72, No. 240, 71168-71176 (December 14, 2007).

<sup>14</sup> *Federal Register*, Vol 73, No. 91, 26436-26451 (May 9, 2008).

- The VA/VHA proposal was announced on June 18, 2008.<sup>15</sup> This project is expected to cover approximately 150 GS employees in the GS-0670 Health Systems Administrator series at the GS-14 and GS-15 grade levels who have job titles of Assistant Medical Center Director, Associate Medical Center Director, or Deputy Network Director.

If approved, the USDA/FSIS demo will test pay banding, while the Education/FSA and VA/VHA demos will test an open-range pay system (i.e., GS grades will remain, but the 10-fixed steps of each grade will be eliminated).

### ***Independent Systems***

Agency-specific systems are established under independent authority granted by Congress, either in a particular agency's authorizing legislation or as a specific authority to implement a separate compensation system.

#### **Federal Aviation Administration (FAA)**

In recent years, FAA has been challenged by lack of employee support of its performance-based pay system reflected by decreasing positive responses to various questions on FAA's employee attitude surveys. FAA has recognized the downturn in employee satisfaction and is taking actions to address employee concerns. Specifically, FAA is implementing a communication initiative to address a number of employee concerns about the current pay-for-performance system. This initiative involves conducting briefings, training, organizational readiness, and understanding sessions throughout the organization.

The FAA pay-for-performance system is funded differently than most other APSs. There are two pools of funds available for employees' annual salary increases. One pool of funds for salary increase is dependent on the percentage of organizational targets met based on the Organizational Success Increase (OSI) criteria. Another pool of funds for salary increase is dependent on the targets met based on the Superior Contribution Increase (SCI) criteria: collaboration, customer service, and impact on organization success and management leadership for managers. These performance targets are reflected in FAA's business plan, called the FAA Flight Plan, and are linked to individual employee performance plans creating "line of sight" and individual accountability. The targets are monitored throughout the year, and when results are below target, deliberate action planning is carried out to improve the results.

Not all FAA employees are included in the APS. Negotiations with American Federation of State, County, and Municipal Employees (AFSCME) were recently concluded in the fall of 2008 to bring employees covered by this bargaining unit into this APS in the spring of 2009. Negotiations are continuing for other bargaining units not yet included.

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<sup>15</sup> *Federal Register*, Vol 73, No. 118, 34800-34808 (June 18, 2008).

## **Internal Revenue Service (IRS)**

The IRS initially implemented its performance-based pay system (PPS) in three phases beginning with Senior Managers in March 2001, followed by the Department Managers in November 2001, and the Frontline Managers in September 2005. In March 2006, the Senior Manager and the Department Manager pay bands were revised to incorporate the pay elements of the Front Manager pay band that featured a stepless design and an annual review.

The Treasury Inspector General Tax Administration (TIGTA) reviewed the IRS's PPS and, in July 2007, concluded that several areas needed improvement, including its design and implementation. In response, the IRS has implemented a strategic communication framework specifically targeted toward affected managers. Surveys, outreach sessions and focus groups also are being conducted to determine how to best communicate with managers and to obtain stakeholders' input on the system. In addition, in September 2007, the IRS initiated a third-party evaluation to be conducted in three phases over five years to determine whether the PPS is effective in supporting its organizational goals to recruit, retain and motivate future leaders.<sup>16</sup>

## **Government Accountability Office (GAO)**

Following congressional review and subsequent retroactive actions to address certain aspects of the GAO performance-based pay system, in September 2008, GAO and the union successfully reached an interim bargaining agreement.<sup>17</sup>

In 2007, Congress requested GAO's Employee Advisory Council (EAC) conduct a survey of all GAO employees (except those in the Senior Executive Service/Senior Level positions, and interns) to measure employee attitudes and perceptions of the Band II restructuring of GAO analyst positions and the market-based compensation system used to set GAO employee salary ranges.<sup>18</sup> The results, reported to Congress in March 2008, indicated almost half (46 percent) of the survey respondents felt dissatisfied with GAO's market-based pay system. Band IIA and IIB analysts reported being more dissatisfied than Band I and Band III analysts, administration professional support staff, and attorneys. Most of the respondents thought overall morale and their own morale, in general, were worse than before the transition to market-based pay (81 and 48 percent, respectively).

The policy for determining annual pay increases is believed to have been a mitigating factor in the decline in employee satisfaction and was subsequently addressed by the newly formed employee union and in congressional hearings. On September 22, 2008, legislation was

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<sup>16</sup> Brittany R Ballenstedt. "IRS hires firm to review performance pay for managers", [GovExec.com](#), September 25, 2007.

<sup>17</sup> "GAO Union and Management Reach Interim Collective Bargaining Agreement," September 26, 2008, GAO Press Release.

<sup>18</sup> "The Government Accountability Office Act of 2007 (H.R. 3268) and Other Reforms." Testimony before the Subcommittee on Federal Workforce, Postal Service, and the District of Columbia, Committee on Oversight and Government Reform, House of Representatives, Government Accountability Office, March 13, 2008, GAO-08-587T.

approved to provide salary adjustments and lump-sum payments to GAO employees who were denied permanent base pay increases in 2006 and 2007 in spite of receiving satisfactory performance ratings.<sup>19</sup>

GAO continues to conduct yearly employee surveys to track changes in employee perception of fairness of performance ratings and changes in employee perception of the link between performance and reward.

### **Transportation Security Administration (TSA)**

In April 2008, TSA's Performance Accountability and Standards System (PASS) compensation packages were modified to eliminate testing of screeners' knowledge of standard operating procedures, improve image tests, and reduce the number of competency and proficiency requirements. These modifications were made based on recommendations from the TSA National Advisory Council (NAC). The NAC composes TSA employees from around the country selected by their peers to two-year terms. The Council interacts regularly with TSA leadership and program offices on employee-related issues.

The total number of TSA employees increased from 47,849 in 2007 to 61,475 in 2008. "TSA has increased the number of part-time hires to provide the flexibility needed to efficiently address airline scheduling."<sup>20</sup> The 2008 numbers reflect that increase in part-time employment.

### **Alcohol and Tobacco Tax and Trade Bureau (TTB)**

TTB is entering its ninth year as a performance-based pay system (PPS). TTB considers its pay authority instrumental in its ability to recruit and retain high quality employees. Of the employees in its PPS, 18 percent have been with the organization or its predecessor organization for 10 years or more, 43 percent for five year or more, and 81 percent for three years or more.

TTB continues to ensure employees understand the link between their pay and their performance. Critical elements include results-oriented performance measures that show a direct line of sight to the Bureau's strategic goals.

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<sup>19</sup> Government Accountability Office Act of 2008, "To make certain reforms with respect to the Government Accountability Office, and for other purposes."

<sup>20</sup> "The United States Department of Homeland Security Transportation Security Administration" (Statement of Gale Rossides 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), July 22, 2008.

## **Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)**

There has been no change to this PPS in 2008. The ATF Strategic Leadership Team (SLT) oversees the management and all aspects of their APS. The SLT determines, on an annual basis, the performance-based payout percentages and the manner in which it is paid; they approve, or delegate authority to approve, exceptions to performance-based pay increases; and, they assure budget discipline.

## **Intelligence Community (IC)**

In February 2006, the Principal Deputy Director for National Intelligence launched a Pay Modernization Feasibility Study. A program office, led by the National Security Agency (NSA), conducted the study to examine the IC and other Federal pay modernization efforts, and to identify “lessons learned.” The study concluded the IC should proceed as a community to modernize its pay system by creating a common compensation “architecture” for the entire IC workforce. With the 2006 Pay Modernization Feasibility Study concluded, the IC proceeded to modernize its pay system.

In May 2008, the Director of National Intelligence (DNI) established the National Intelligence Civilian Compensation Program (NICCP) to provide a common IC-wide framework of core principles and processes for the compensation of employees who will be converted into the system.<sup>21</sup> This “system of systems” has been captured in six Intelligence Community Directives (ICDs). Two of the six ICDs deal with performance management system requirements, applicable to civilian employees in all IC components, while the remaining four ICDs define performance-based pay policies for those IC components that currently have the legal authority to implement them.

The implementation and conversion will be event-driven, based on the readiness of each IC agency and will be phased-in agency by agency over the next five years.<sup>22</sup> The Defense Intelligence Agency (DIA) converted its civilian workforce into an NICCP-compliant system called the Defense Civilian Intelligence Personnel System (DCIPS) in September 2008. The remaining Defense Intelligence components will convert to DCIPS over the next year. The Office of the Director of National Intelligence (ODNI), the Central Intelligence Agency (CIA), and intelligence analysts at the Federal Bureau of Investigation (FBI) and the Department of Homeland Security (DHS) plan to convert to a NICCP-compliant system over the next two years.

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<sup>21</sup> “Improving Performance: A Review of Pay-for-Performance Systems in the Federal Government.” (Statement of Ronald Sanders, Associate Director of National Intelligence for Human Capital, before the Senate Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia), Intelligence Community, July 22, 2008.

<sup>22</sup> Ibid.



To oversee the IC-wide process and to coordinate community pay decisions in a collaborative manner, the DNI designated an IC Human Capital Board in April 2008.<sup>23</sup> In addition, the IC Pay Modernization Project Office has launched a coordinated and intensive employee communications program.

### **National Geospatial Intelligence Agency (NGA)**

NGA realigned its pay banding system to comply with the NICCP and DCIPS requirements in October 2008. On September 30, 2008, NGA completed its ninth performance-based pay rating period, and evaluations for this cycle were expected to be completed on November 1, 2008.

### **Department of Homeland Security (DHS)**

On September 30, 2008, the Department of Homeland Security Appropriations Act of 2009, was signed into law prohibiting the use of funds to be used for the development, testing, deployment or operation of any portion of a human resources management system authorized by 5 U.S.C. 9701(a). Subsequently, the Department issued a statement rescinding the application of its new human resources system, effective immediately. Covered employees will revert to coverage under chapters 43, 75, and 77 of title 5 of the United States Code.

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<sup>23</sup> Ibid.

## Department of Defense National Security Personnel System (DoD NSPS)

To date, DoD has implemented NSPS for approximately 187,000 employees. DoD converted personnel to NSPS using a phased approach with specific groups of employees grouped in “spirals.” DoD expects to convert approximately 14,000 to 15,000 additional employees in early fiscal year (FY) 2009. The number of employees converted in each spiral, upon completion of Spiral 2.2 conversions, is shown in Table 2 below.

**Table 2: Phased Implementation of NSPS**

Spiral	Army	Navy	Air Force	4th <sup>24</sup> Estate*	Total	End of Rating Cycle
1.1	2,666	4,437	3,114	1,543	11,760	October 2006
1.2	16,583	9,343	35,758	8,257	69,941	October 2007
1.3	26,698	8,022	1,114	317	36,151	October 2007
2.1	9,680	7,814	5	160	17,659	October 2008
2.2	17,092	20,138		14,240	51,470	October 2008
				<b>Total</b>	<b>186,981</b>	

The initial implementing regulations for NSPS were published November 1, 2005, providing DoD the authority to establish a program with eight components:

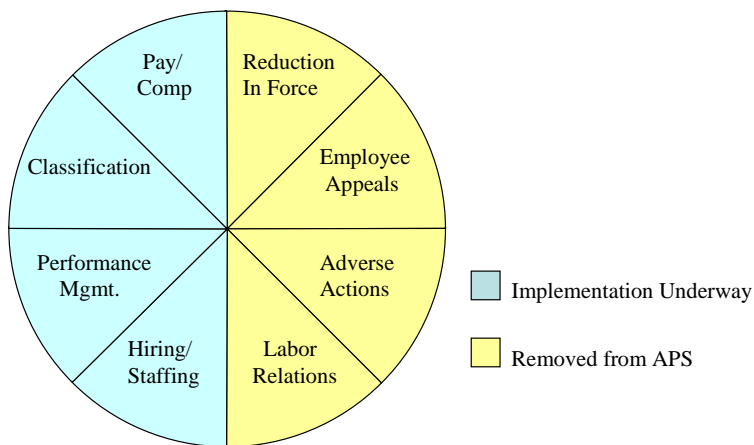
- performance-based and market-sensitive pay
- occupational classification
- performance management
- staffing and workforce shaping
- reduction in force
- labor relations
- adverse actions
- employee appeals

While DoD had authority to develop these components, implementation of the employee appeals, adverse actions, and labor relations systems was held up due to a court challenge. Although the court decided in favor of DoD, the 2008 National Defense Authorization Act (NDAA) language

<sup>24</sup> This includes every organization, collectively, under the purview of the Department of Defense that is not part of the Department of the Army, Department of the Navy, or Department of the Air Force. It does not include the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, or the National Security Agency/Central Security Service.

prompted removal of the staffing, reduction in force, employee appeals, adverse actions, and labor relations components. Subsequently, the 2009 NDAA amended the 2008 NDAA language to reinstate DoD's authority to implement staffing authorities. Proposed rules addressing the 2008 changes were posted in the [Federal Register](#) on May 22, 2008, with final rules published on September 26, 2008. Figure 1 depicts the current status of NSPS implementation.

**Figure 1: DoD Alternative Personnel System Implementation Status**



In December 2008, OPM published its second report assessing the status of the DoD NSPS entitled *Creating a Foundation for the 21st Century Federal Workforce – An Assessment of the Implementation of the Department of Defense National Security Personnel System*.

That evaluation concluded:

- There is linkage between employee performance objectives and organizational goals; employees are held accountable for meeting those goals; there is distinction in performance as evidenced by the distribution of performance ratings; and, there is a positive correlation between pay increases, cash awards, and performance ratings.
- There is strong DoD and component-level senior leadership support for NSPS implementation. Program offices and dedicated resources have been allocated from the highest policy level to the component and organization implementation levels.
- There is a high level of transparency in the entire migration process, including implementing issuances, training availability, performance evaluation data and findings, and lessons learned. However, DoD needs to focus on the decrease in employee perceptions that their performance ratings are a fair reflection of their performance. Continuous clear, factual, and open communication is essential to positively effect the culture shift associated with changing a system as long-standing as the Federal Government's pay and performance system.

- The Program Executive Office (PEO) has established a system with multiple layers of oversight and controls to ensure fairness of NSPS. Qualitative and employee perception data validate the transparency of NSPS policy, business rules, performance ratings, and associated pay increases and awards.
- There has been no impact on the level of trust and confidence employees have in their supervisors.
- There are still a number of employee concerns evident in the perception data. Historically, however, employees covered under new APSs have expressed an initial decrease in acceptance and buy-in of new alternative personnel systems. Employee perception gradually improves (normally within three-five years) to eventually exceed baseline values. The foundation the DoD PEO has established is strong, and with continuous education, experience, and maturity of the system, it is expected NSPS will mirror the historical trend.

## **Financial Regulatory Agencies**

The Securities and Exchange Commission (SEC), Federal Housing Finance Agency (FHFA), and the Federal Deposit Insurance Corporation (FDIC) have independent pay authority for their performance-based pay systems. The Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) granted other Federal financial regulatory agencies the flexibility to establish their own compensation systems. FIRREA agencies also are required to consult with one another for the purpose of keeping their compensation systems in line with others. The FIRREA agencies link employee performance objectives to organizational goals and the overall strategic direction of their organizations. Overall, FIRREA agencies have pay systems that enable them to offer higher pay increases to employees whose performance is rated highest.

In 2008, a new financial regulatory agency was established as the result of The Housing and Economic Recovery Act of 2008, Public Law 110-289. This law created the Federal Housing Finance Agency (FHFA) to be the new regulator of the Government-sponsored housing enterprises (Fannie Mae, Freddie Mac and the Federal Home Banks). Both the Office of Federal Housing Enterprise Oversight (OFHEO) and the Federal Housing Finance Board (FHFB) have been subsumed into this new agency.

### **Office of Thrift Supervision (OTS)**

OTS continues to manage costs through a salary budget and a merit pool that is determined by conducting a comparative analysis of the other Federal financial regulators and yearly General Schedule pay increases. Senior management reviews all recommended pay increases to ensure comparability. Employees are informed of salary ranges, equal employment data, overall performance rating distribution and salary budget through emails, newsletters, and the internal website. Employee surveys are administered to solicit feedback and a “suggestion box” is available for employees to submit anonymous questions and/or make comments.

OTS reports it has learned that maintaining a current and relevant performance-based pay system involves regular updates and revisions to policies and pay practices to keep abreast of trends and market changes.

### **Office of the Comptroller of the Currency (OCC)**

OCC is currently in the process of reviewing its pay system, which includes obtaining feedback from employees and managers on what has and has not worked. OCC recognizes that stakeholder involvement is critical in obtaining buy-in when implementing or modifying an APS.

OCC posts merit pay increases and bonuses by performance level for each major organizational unit on its intranet. Special increases, cash awards, and time-off awards by organization and grade also are shared.

### **National Credit Union Administration (NCUA)**

In January 2008, NCUA signed a collective bargaining agreement (CBA) with the National Treasury Employees Union (NTEU). The CBA outlines the compensation plan for all bargaining unit (BU) employees and changes the way merit pay is paid to all bargaining unit employees. NCUA uses a pay matrix tied to employees' performance rating scores (which can range from 0 to 300) to calculate pay increase percentages. The top 25 percent will receive 8.25 percent of their national pay rate (NPR); the next 50 percent will receive 4.5 percent of their NPR; and the remaining 25 percent will receive 2.75 percent of their NPR. Employees who receive a performance rating score below a specified number fall within the "Unsatisfactory" or "Minimally Successful" performance rating ranges and do not receive any pay increases.

In addition to the merit pay tiers, the CBA provides for a raise in the pay bands of 4 percent in the first year of the contract and 2 percent each year for the next two years. NTEU believes these increases will assist in mitigating pay compression issues.<sup>25</sup> Further, they are applicable to all employees whether they are in the bargaining unit or not. The CBA also requires changes to the pay bands each year based on the changes to locality pay rates.

For non-bargaining unit employees, merit pay for supervisors and managers is based on a matrix established by the NCUA Board. Employees in the same pay pool who receive the same performance rating receive the same pay increase percentage.

Employees can access the entire CBA through the NCUA's Intranet website. Supervisors are responsible for providing the merit pay matrix to non-bargaining unit employees. Further, pay adjustments are shared with the other FIRREA agencies as required by law.

### **Federal Deposit Insurance Corporation (FDIC)**

The FDIC performance-based pay system is undergoing modification to address various employee concerns. One change that has been implemented is the elimination of group assignments used to determine pay increases. Previously, employees were placed in one of four

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<sup>25</sup> Press Release. "NTEU, NCUA Agree to New Collective Bargaining Agreement" nteu.org, December 12, 2007.

groups based on an assessment of their total performance and corporate contributions as compared with other employees in the same pay pool. Pay increases were then determined based on an employee's group placement. While FDIC and National Treasury Employee Union (NTEU) agreed to suspend payments under the system for employees covered in the 2007 performance cycle, an interim agreement between FDIC and the NTEU has been reached for the 2008 pay adjustments.

### **Farm Credit Administration (FCA)**

The FCA performance-based pay system has not changed since 2005. FCA's Employee Council is a means for employees to provide feedback on the program and ensure buy-in of changes to the system. The FCA shares agencywide statistics on performance ratings and pay increase percentages to all employees through its newsletter.

### **Commodity Futures Trading Commission (CFTC)**

The CFTC reports that during fiscal year 2008, it completed the phased implementation of its pay-for-performance system first established in 2006. CFTC credits this accomplishment mainly to continuous and open communication with employees and stakeholder involvement.

The system was developed and revised based on input from employees and managers. For example, the system requires formal, quarterly interim performance review meetings, which were adopted to address specific input from managers and employees who needed more guidance on how their work supported agency objectives. In addition, all employees and managers received mandatory classroom training on both the performance management and pay systems to ensure all participants understood the systems.

To provide oversight of its statutory compensation authority, CFTC chartered its Pay Parity Governance Committee (PPGC). The PPGC is comprised of rotating committee members who are representatives from all agency units and locations. It collects information on agency needs and relevant best practices through feedback from committee members, formal focus groups and online employee surveys. Among other things, the PPGC examines the published performance system outcomes for indications of the validity and equity of rating and pay outcomes and to ensure the budget for the system is warranted by agency mission results.

CFTC believes the new pay system has contributed positively to the success of its recent hiring efforts and their improved retention rate. For the first time in several years, the agency was authorized to fill a significant number of vacancies during FY 2008. According to CFTC, they were more successful in competing for superior candidates while meeting their goal to increase the agency's workforce by one-sixth. When losses due to retirements are excluded, retention has also improved by 1.2 percent since 2006.

**Table 3: CFTC Turnover Rates (excluding retirements)**

<b>Fiscal Year</b>	<b>Turnover Rate</b>
2008	2.4%
2007	3.9%
2006	3.6%

CFTC shares information about its system with all employees through regular email bulletins and other issuances. The CFTC Intranet also provides employees full access to public documents that detail the objectives, terms and conditions of the programs, as well as summaries of practices at other employers and links to relevant studies and websites. CFTC reported fiscal year 2007 rating and award outcomes for the first cycle under its performance management and award system to employees and is preparing to release this same type of information on the first merit payout in 2008.

**Federal Housing Finance Agency (FHFA)**

FHFA was created by the Housing and Economic Recovery Act of 2008 to oversee vital components of the secondary mortgage markets. FHFA is comprised of employees from the former Office of Federal Housing Enterprise Oversight (OFHEO), Federal Housing Finance Board (FHFB) and Department of Housing and Urban Development's (HUD) Government-Sponsored Enterprise (GSE) mission team. Effective October 27, 2008, employees of OFHEO and FHFB were transferred into the FHFA.

Also in October 2008, FHFA introduced its PPS for all employees. Section 1315 (12 U.S.C. 4515) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended by the Housing Economic Recovery Act of 2008 gives FHFA the authority to establish its own compensation program without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates. Further, FHFA will maintain a non-executive compensation program that is comparable with the other Federal financial institution regulatory agencies.

There is an OFHEO pay plan and an FHFB pay plan under which all former employees are covered. The FHFA Office of Human Resources Management is developing a pay plan for the FHFA that is expected to be in place by July 2009.

FHFA has requested OPM approval for a five-level rating system in which individual's performance is rated as outstanding, excellent, fully successful, minimally acceptable or unacceptable. Under this system, if approved, employees who receive an overall rating of record of fully successful or better are eligible for a merit distribution.

**Federal Housing Finance Board (FHFB)**

The Housing Economic Recovery Act of 2008 established the Federal Housing Finance Agency (FHFA). It combined the OFHEO, the FHFB, and the HUD GSE mission team. At the end of October 2008, FHFB employees were transferred into the FHFA.

## **Office of Federal Housing Enterprise Oversight (OFHEO)**

The Housing Economic Recovery Act of 2008 established the Federal Housing Finance Agency (FHFA) and combined the OFHEO, the FHFB and the HUD GSE mission team. OFHEO employees were transferred into the FHFA the end of October 2008.

## **Securities and Exchange Commission (SEC)**

In 2007, an arbitrator found the SEC's performance-based pay system (PPS) presented some evidence of adverse impact. In his findings, the arbitrator cited a statistical analysis furnished by the National Treasury Employees Union (NTEU) that showed possible discrimination against African-Americans and employees who are age 40 and older.<sup>26</sup> As a result, the SEC will pay shares of 2.7 million dollars to African-American employees in SK- Grade 8-16 and employees 40 and older in all SK grades to settle the case.

Mr. Diego Ruiz, SEC's Executive Director, stated in his February 12, 2008, testimony before congressional subcommittees on SEC's PPS that during the time of the grievance, SEC and NTEU were crafting a new performance management program.<sup>27</sup> The new five-tiered performance management program replaces the system that was the subject of the arbitration dispute.<sup>28</sup> It moves the SEC from a "pass/fail" system to one with individualized performance objectives and competencies and will require supervisors to make meaningful distinctions in performance.<sup>29</sup> Before converting all employees to the new program, SEC piloted the program in the Office of Human Resources starting in September 2006 and completed the first annual assessment in October 2007.<sup>30</sup> Based on lessons learned from the pilot and feedback from SEC managers and supervisors, significant adjustments were made before starting the transition of management to the new system.<sup>31</sup> SEC expects to start transitioning the remainder of the employees beginning in 2009.<sup>32</sup>

The SEC announced to its employees in May 2008 that it had reached an agreement with NTEU to temporarily separate merit pay from the performance management process. This decision will allow the SEC to focus on effectively implementing all aspects of the agency's new performance management system before relying on it to provide performance information from which pay decisions are made. SEC reports this agreement will result in all SEC employees who receive an acceptable rating for the most recent performance cycle will receive the same percentage increase to their basic pay. SEC will share aggregate totals of summary rating distributions at the end of the cycle with NTEU and all employees through the SEC intranet.

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<sup>26</sup>Alyssa Rosenberg. "SEC, union settle pay-for-performance case" govexec.com, October 7, 2008.

<sup>27</sup> U.S. Securities and Exchange Commission. Testimony, Diego Ruiz, Executive Director, Before Congressional Subcommittees "Testimony Concerning The SEC's Pay-for-Performance System," Washington, DC: SEC, February 12, 2008.

<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

<sup>30</sup> Ibid.

<sup>31</sup> Ibid.

<sup>32</sup> Ibid.



SEC also has eliminated steps in their pay scale and now has a Min/Max scale for non-executive employees. Employees also are able to view this pay scale on the SEC Intranet.

## **Government Executive Pay**

### **Senior Executive Service (SES)**

Members of the Senior Executive Service (SES) are covered by a performance-based pay system established in law and regulated jointly by OPM and the Office of Management and Budget (OMB). For agencies to be able to pay their executives above Executive level III, up to level II, and up to the higher aggregate pay level, agencies first must have their appraisal systems certified by OPM, with concurrence by OMB. Since SES performance-based pay was established in 2004, agency systems have consistently improved in a variety of ways. Agencies are making meaningful distinctions in performance and are using clear and transparent appraisal practices and processes. Executive performance plans are directly linked to organizational goals, and executive performance ratings are primarily based on organizational performance. Performance ratings are driving pay decisions, resulting in a strong, positive correlation between executive ratings and performance pay. In addition, the features and results of agency SES performance management systems are communicated to executives, and appropriate training is provided to those responsible for operating the system.

Since 2004, agency systems can receive provisional certification, which covers one calendar year, or full certification, which covers two calendar years. Agencies receiving full certification of their SES appraisal systems in 2007 were able to request a renewal of full certification in 2008 by using OPM's SES Performance Appraisal Assessment Tool (SES-PAAT). This tool is designed to function as an important component of agencies' internal human capital accountability systems and to promote increased efficiencies in the certification process. The SES-PAAT must be completed every two years, consistent with the two-year full certification cycle, and submitted to OPM no later than six months prior to the expiration of certification.

The results of the SES PPS are directly aligned with the certification requirements:

- Pay adjustments and awards are based on performance
- Agencies are holding executives accountable for achieving results that are clearly tied to organizational goals
- Agencies are assessing organizational unit performance, communicating that performance to rating officials, and ensuring their rating distribution reflects the unit's performance
- Agencies are making distinctions in levels of performance
- Agencies are holding executives accountable for the performance management of subordinates
- Agencies are establishing oversight and accountability systems for their SES performance-based pay system

At the end of calendar year 2007, OPM, with OMB concurrence, certified 46 SES appraisal systems. Table 4 provides the calendar year 2008 certification status of the largest Federal agencies.

**Table 4: Agency SES Performance Management System Certification Status**

<b>Agency</b>	<b>Certification Status for CY 2008</b>	<b>SES Rated FY 2007</b>
Agriculture	Provisional	353
Commerce	Full	290
Defense	Full	1,199
DHS	Full	368
Education	Full	76
Energy	Provisional	405
EPA	Full	288
HHS	Full	405
GSA	Full	85
HUD	Full	91
Interior	Full	244
Justice	Provisional	647
Labor	Full	168
NASA	Full	427
OMB	Provisional	57
OPM	Full	49
SBA	Full	42
SSA	Full	134
State	Provisional	147
Transportation	Full	205
Treasury	Full	400
USAID	Provisional	19
VA	Full	286
All Others*		487
<b>Total</b>		<b>7,016**</b>

\* Other Small Agencies

\*\* There are now over 7,300 employees in the SES

Prior to 2004, several agencies were still using performance management systems that did not provide for a rating level above Fully Successful, sometimes labeled as pass/fail systems. Since then, agencies have improved their ability to make distinctions in performance (see Table 5).

**Table 5: SES Performance Ratings**

Agency	2001 Percent at Highest Rating Level <sup>33</sup>	2004 Percent of Highest Rating Level	2007 SES Rated	2007 Percent of Highest Rating Level	Difference 2007 - 2004
Agriculture	36%	44%	353	47%	3%
Commerce	80%	49%	290	54%	5%
Defense	99%*	99%	1,199	32%	-67%
Education	100%*	99%	76	51%	-48%
Energy	99%*	44%	405	38%	-6%
EPA	85%	61%	288	39%	-22%
GSA	92%	28%	85	47%	19%
HHS	91%*	52%	405	66%	14%
Homeland Security	n/a	85%	368	55%	-30%
HUD	99%*	45%	91	62%	17%
Interior	100%*	22%	244	22%	0%
Justice	91%	62%	647	69%	7%
Labor	61%	45%	168	43%	-2%
NASA	76%	76%	427	59%	-17%
NRC	100%*	9%	144	29%	20%
OMB	20%	33%	57	9%	-24%
OPM	37%	47%	49	20%	--27%
SBA	82%	70%	42	45%	-25%
SSA	100%*	56%	134	63%	7%
State	99%	86%	147	71%	-15%
Transportation	100%*	33%	205	44%	11%
Treasury	63%	44%	400	45%	1%
USAID	79%	53%	19	58%	5%
VA	56%	64%	286	59%	-5%
All Others	83%	61%	487	54%	-7%
<b>Governmentwide</b>	<b>84%</b>	<b>62%</b>	<b>7,016</b>	<b>48%</b>	<b>-14%</b>

<sup>33</sup> Most, if not all, of the agencies were under a Pass/Fail system in 2001

## 2008 Survey of Senior Executive Service

In January 2008, OPM administered the 2008 Survey of Senior Executive Service to all members of the SES to obtain feedback on the implementation of the SES performance-based pay system. Sixty-five percent of the members participated. OPM’s Senior Executive Service Survey Results report revealed the majority of respondents believe their pay should be based on performance, feel they were held accountable for achieving results, and understand their organization’s performance appraisal system.<sup>34</sup>

**Table 6: SES Survey Results**

Survey Question	2004 FHCS	2006 FHCS	2008 SES (% positive responses)
Pay for SES should be based on performance.	Not Asked	Not Asked	93%
I am held accountable for achieving results.	92%	84%	91%
I understand the SES performance appraisal system being used in this organization	Not Asked	Not Asked	83%

On the other hand, transparency of the appraisal system could be improved. Fifty-seven percent of the respondents had seen or received a copy of their agency’s Executive Performance Management System Description. Moreover, only 40 percent of the respondents had seen or received a copy of their agency’s Executive Compensation/Pay Plan.

The 2008 Senior Executive Service Survey results showed only 61% of executives were satisfied with their pay – a significant decrease from 73 percent satisfied reported in the 2006 FHCS. The results report notes this decrease could be because increases to SES pay, on average, have lagged behind those in the General Schedule. In addition, only 50 percent of respondents felt SES pay and benefits are helpful in attracting and retaining high quality senior executives. SES pay has been a topic of several articles and a major concern for the Senior Executives Association (SEA). SEA is proposing legislation to improve SES pay and performance management.

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<sup>34</sup> *Senior Executive Service Survey Results*. OPM, May 2008.

The SES survey questions also addressed the pay-for-performance process and implementation. Most respondents felt their appraisal was a fair reflection of their performance and their salary increases and bonuses were linked to their appraisals.

**Table 7: SES Survey Results**

<b>Survey Question</b>	<b>2004 FHCS</b>	<b>2006 FHCS</b>	<b>2008 SES (% positive responses)</b>
My performance appraisal is a fair reflection of my performance.	79%	68%	68%
To what extent is your salary increase linked to your performance rating?	Not Asked	Not Asked	64%
To what extent is your bonus linked to your performance rating?	Not Asked	Not Asked	72%

Yet, a low percentage of respondents believe pay and bonus distinctions are meaningfully different among executives. According to the results report, this could be attributed to several factors such as a rating pattern that does not differentiate sufficiently or lack of funding to make a differentiated pattern meaningful to the executives. In addition, fewer than half of respondents believe pay-for-performance promotes better organization performance in their agency. The results report mentions there is significant variation among agencies on that item, from a low of 11 percent (OMB) to a high of 68 percent (OPM).

**Table 8: SES Survey Results**

<b>Survey Question</b>	<b>2008 SES (% positive responses)</b>
Pay distinctions are meaningfully different among executives.	26%
Bonus amounts are meaningfully different among executives.	32%
In my agency, SES pay-for-performance promotes better organizational performance.	43%

**Senior-Level and Scientific or Professional Positions (SL/ST)**

The SL/ST performance-based pay system covers employees in senior-level and scientific or professional (SL/ST) positions. These positions often involve high-level research and development in the physical, biological, medical, or engineering sciences, or a closely-related field, or cover work classified above the GS-15 level.

Currently, agencies are not able to pay their SL/ST employees above the Executive III level. However, in October 2008, the Senior Professional Performance Act of 2008 (Public Law 110-372) was passed, allowing alignment of the SL/ST pay system with the SES pay system. This now gives agencies the authority to pay their SL/ST employees above Executive level III, up to Executive level II, if their SL/ST performance appraisal system has been certified by OPM with OMB concurrence. The new SL/ST pay provisions will be effective after April 12, 2009. The Act also revises the certification time period for both SES and SL/ST systems, replacing the calendar year limitations with a two-year timeframe. Certification now can be granted up to 24 months and extended an additional six months by OPM.

### **Senior Foreign Service (SFS)**

There has been no change to the SFS system in 2008 although the number of employees covered by the SFS system decreased slightly from 2007. The SFS system covers designated employees at the State Department, Department of Agriculture, Department of Commerce and the U.S. Agency for International Development.

## ***Federal Human Capital Survey (FHCS) Responses***

The Chief Human Capital Officers (CHCO) Act of 2002 acknowledged the importance of Federal employees to the effective and efficient operation of Government. As a part of OPM's overall leadership responsibilities in the strategic management of the Federal civil service, and pursuant to 5 U.S.C. 1103, OPM is responsible for designing a set of systems, including standards and metrics, for assessing the management of human capital by Federal agencies. OPM adopted the Human Capital Assessment and Accountability Framework (HCAAF) to describe the concepts and systems for planning, implementing and evaluating the results of human capital management policies and practices. OPM also adopted a set of Systems, Standards, and Metrics for each HCAAF system (HCAAF-SSM). Together, the HCAAF and the HCAAF-SSMs guide agencies in planning, evaluating and improving the efficiency and effectiveness of agency human capital management.<sup>35</sup> There are currently 18 questions included in the required HCAAF-SSM metrics separated into 4 categories: Leadership and Knowledge Management, Results-Oriented Performance Culture, Talent Management, and Job Satisfaction. 5 CFR Part 250, Human Resources Management in Agencies, issued earlier this year, now requires all agencies to collect responses to these questions annually, either through the Federal Human Capital Survey (FHCS) or through their agency employee survey (AES).

In addition, employee perception data is a critical component of the criteria used to evaluate alternative personnel systems – not only from the perspective of obtaining the intended outcomes of the APS but also as a continuous feedback loop to program offices and senior leadership in refining the agency systems. While the HCAAF SSM metrics are not all-inclusive of the questions identified in OPM's [Alternative Personnel Systems Objectives-Based Assessment Framework](#) used to evaluate DoD's National Security Personnel System in 2008, they do cover the critical components. Also, since these metrics are required by regulation, they will provide good longitudinal measures and enable Governmentwide comparisons.

The following charts are a sub-set of the 18 SSM metrics. This section provides results of the FHCS and DoD NSPS Status of Forces–Civilian Survey for which standard survey deployment and reporting protocols are used. The FHCS survey is deployed every other year in even numbered years. While the 2008 FHCS has been deployed, survey results will not be available until some time the first quarter of 2009.

Additional employee survey results are provided in the Appendix for responses to the same (or equivalent) questions asked on the FHCS. Data was obtained from the agency annual employee surveys (AESs) or reported in agency evaluation reports. Generally, AES surveys are deployed, and data managed, by each individual agency. There is no Governmentwide oversight of agency survey deployment and reporting protocols, therefore, results cannot be directly compared to the FHCS results in Figures 1 through 10. These data should be viewed for general comparisons and trends within each agency. AES surveys generally are deployed in odd numbered years.

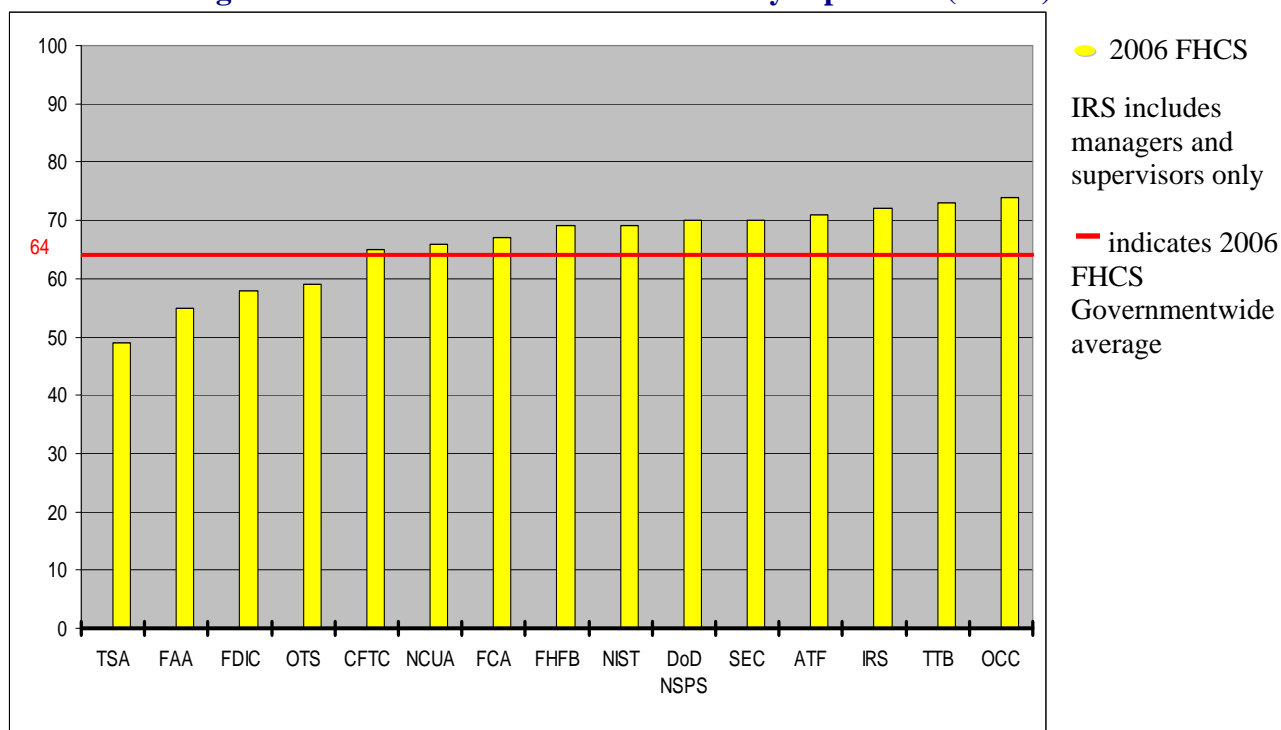
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<sup>35</sup> *Federal Register*, Vol 73, No. 82, 23012-34605 (April 28, 2008)

The reader also will note results are not included for every agency described in this report, and AES data may not be available for all agencies where FHCS data is shown. Reasons data are not available range from insufficient survey response size to provide statistically valid results, to insufficient demographics to segregate responses from those individuals included in an APS versus those who are not. In some cases, smaller agencies did not begin deploying an AES until 2007.

FHCS results were provided by OPM, which manages the FHCS process. DoD NSPS data were provided by the NSPS Program Executive Office.

**Figure 2: I have trust and confidence in my supervisor (FHCS)**



**NOTE:** The DoD NSPS data was obtained from the Status of Forces Survey-Civilian for data included in Figures 1-10

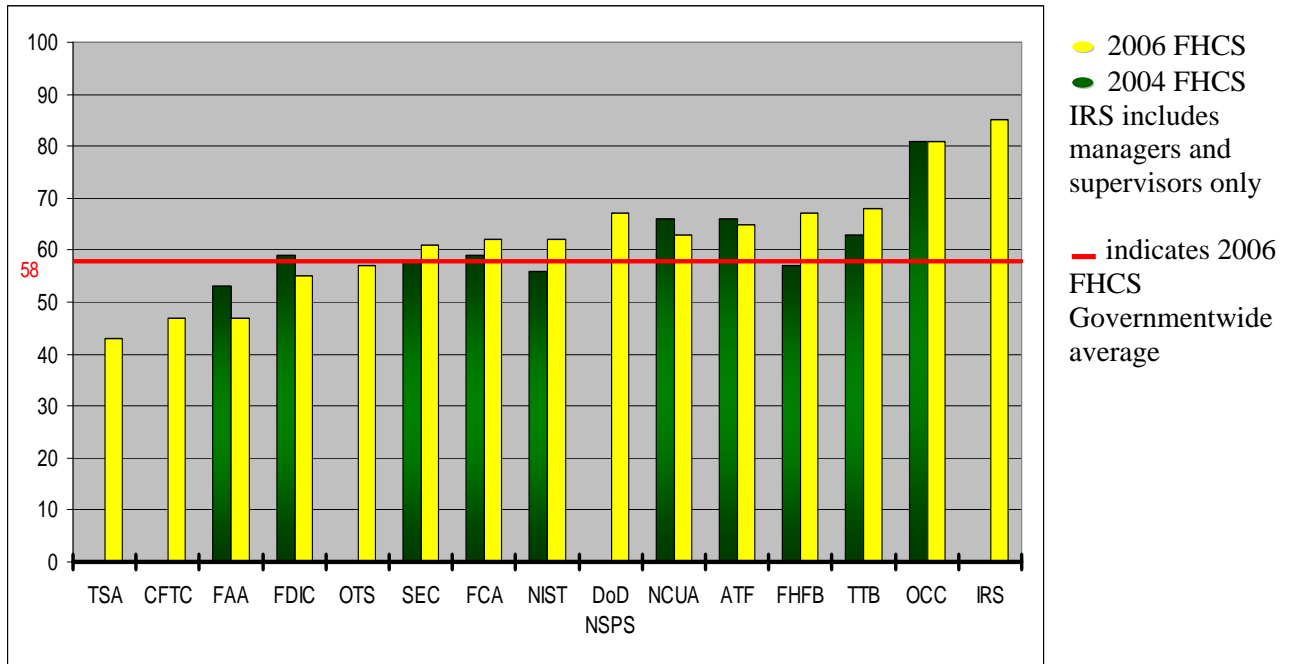
Research indicates that trust and good communications between employees and supervisors are essential for effective and accepted performance management systems. Performance management systems that are fair, transparent and have clear alignment of employee expectations to organizational goals and objectives are key elements of a successful performance-based pay system. Figures 1 through 5 reflect responses to five key questions on the Federal Human Capital Survey that address these elements.

While most of the results indicate agencies in performance-based pay systems had a higher positive response rate than the Governmentwide average, a few agency results were markedly below that line. The Transportation Security Administration (TSA), Federal Aviation

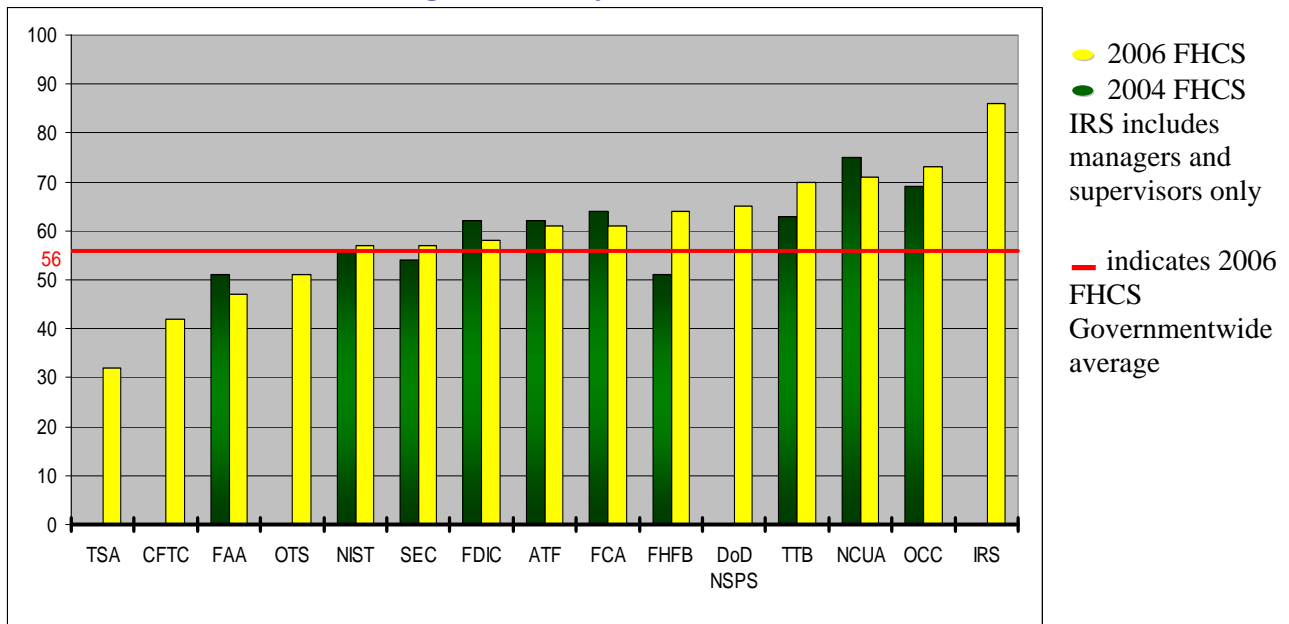


Administration (FAA), and Office of Thrift Supervision (OTS) had the majority of responses below the Governmentwide average for the 10 questions included in this report. The Office of the Comptroller of the Currency (OCC), the Alcohol and Tobacco Tax and Trade Bureau (TTB), and Internal Revenue Service consistently had the highest percent of positive responses for most of the same questions.

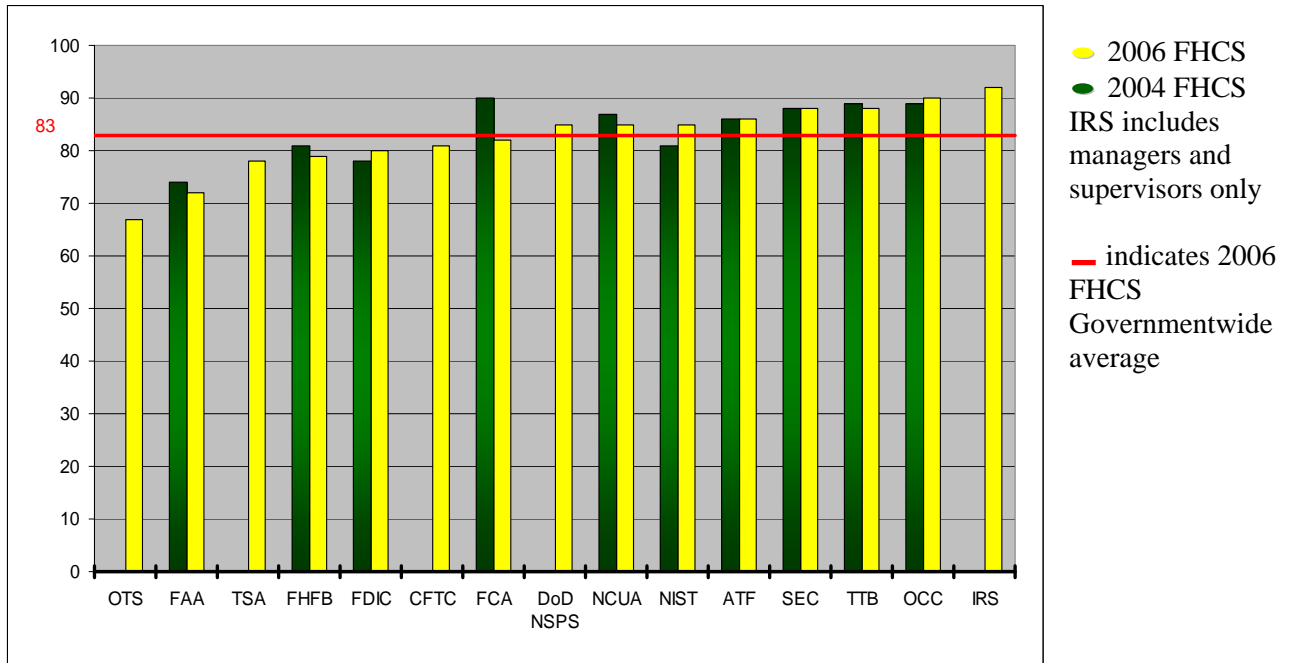
**Figure 3: Managers communicate the goals and priorities of the organization (FHCS)**



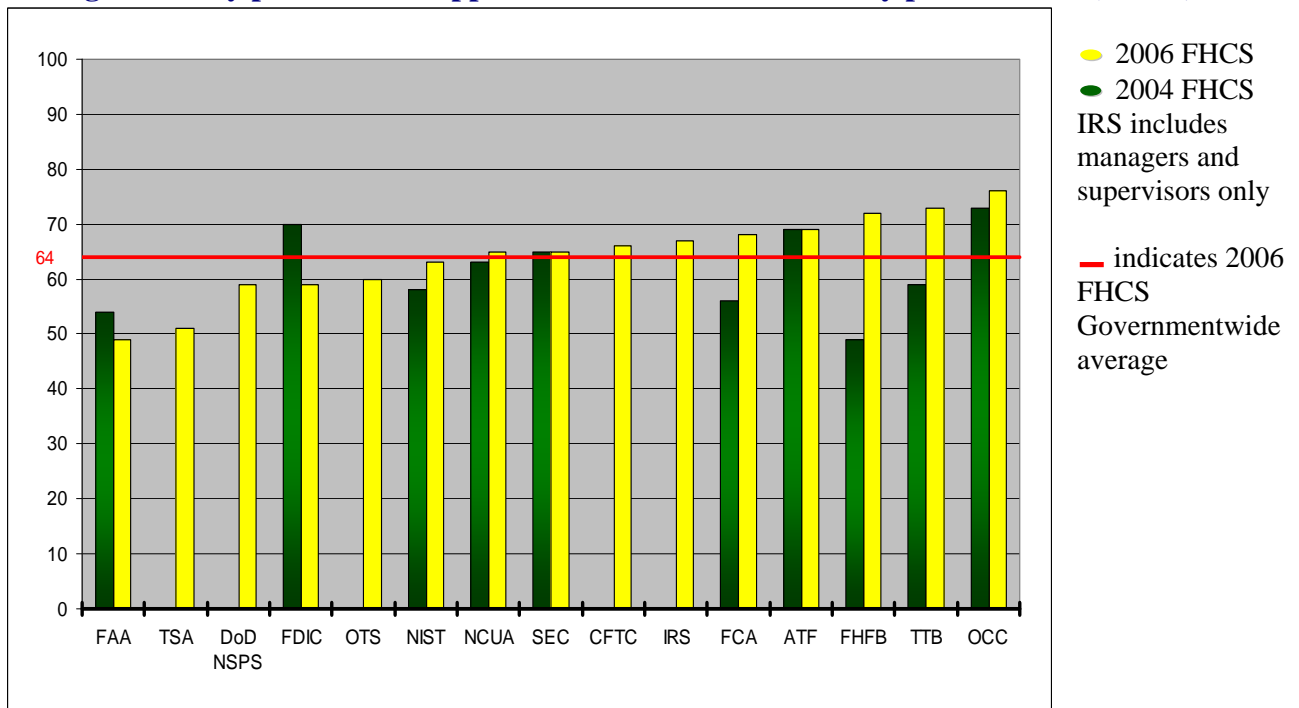
**Figure 4: Managers review and evaluate the organization's progress toward meeting its goals and objectives (FHCS)**



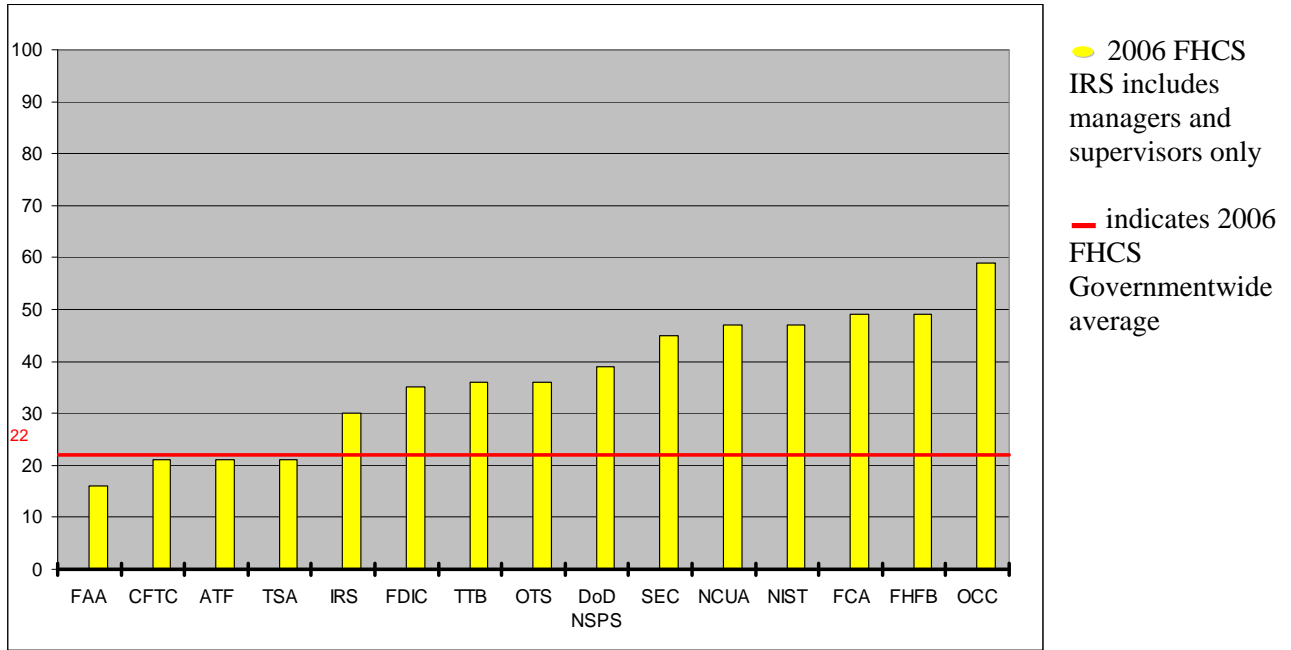
**Figure 5: I know how my work relates to my agency's goals and priorities (FHCS)**



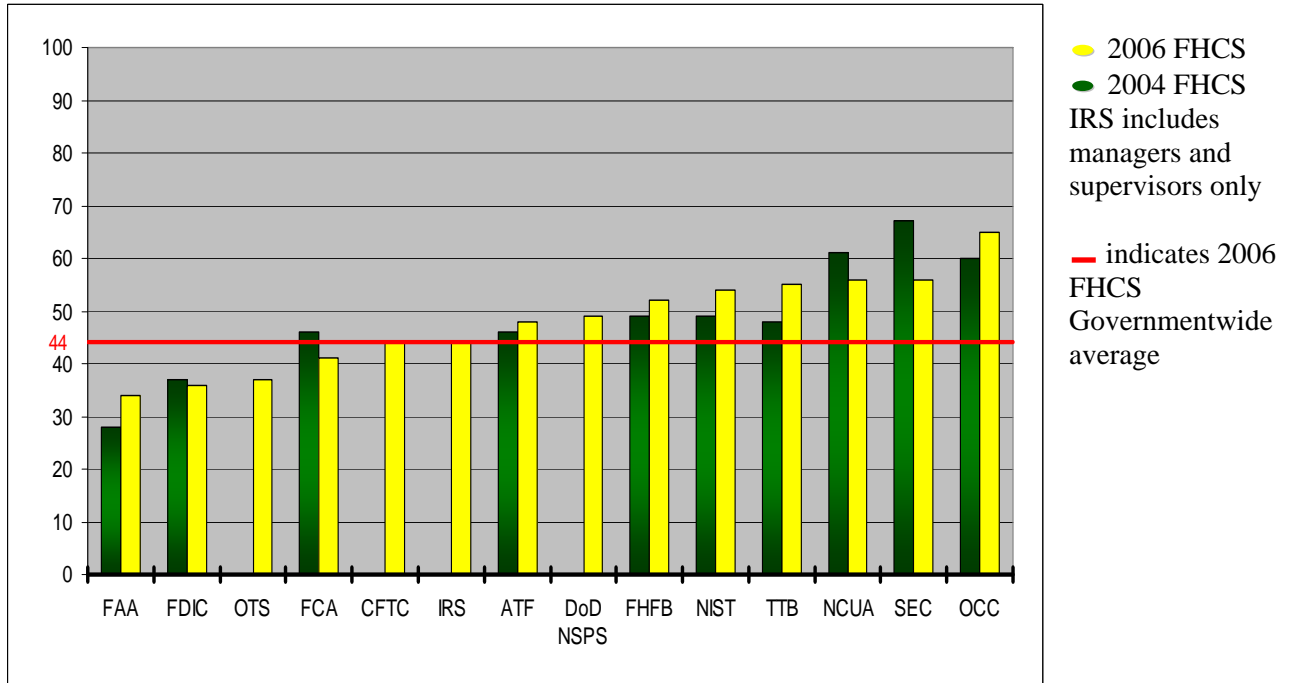
**Figure 6: My performance appraisal is a fair reflection of my performance (FHCS)**



**Figure 7: Pay raises in my work unit depend on how well employees perform their jobs (FHCS)**

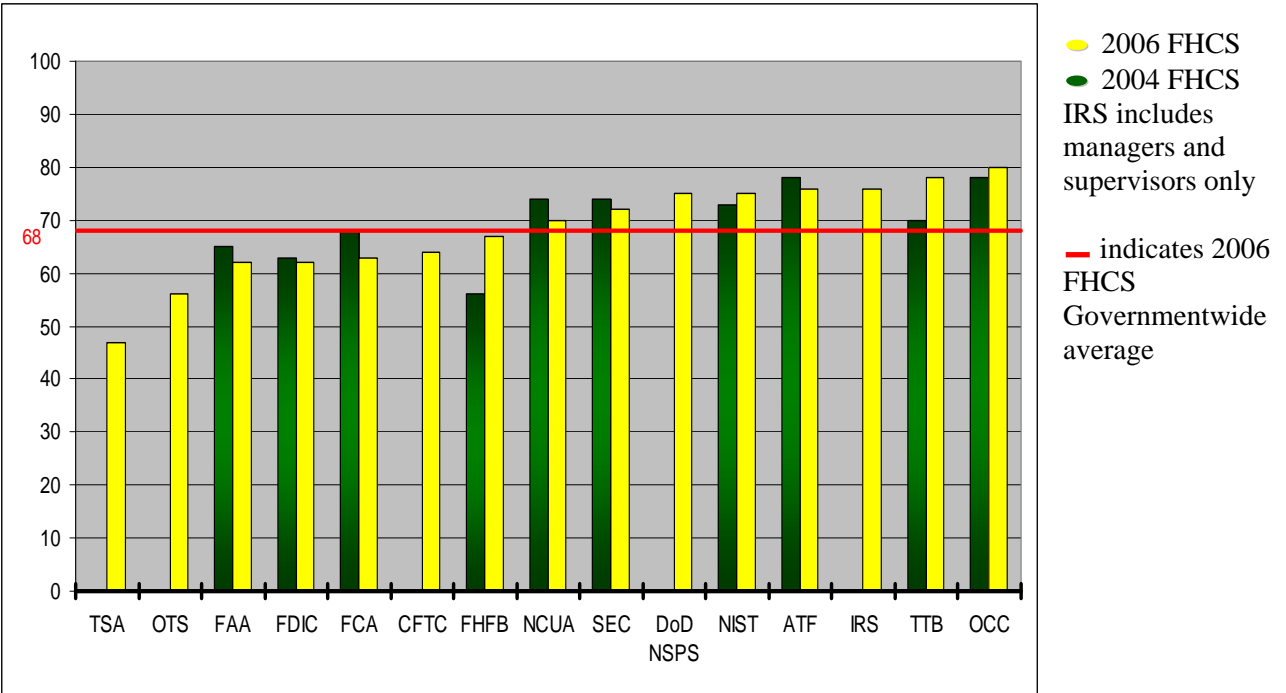


**Figure 8: My work unit is able to recruit people with the right skills (FHCS)**

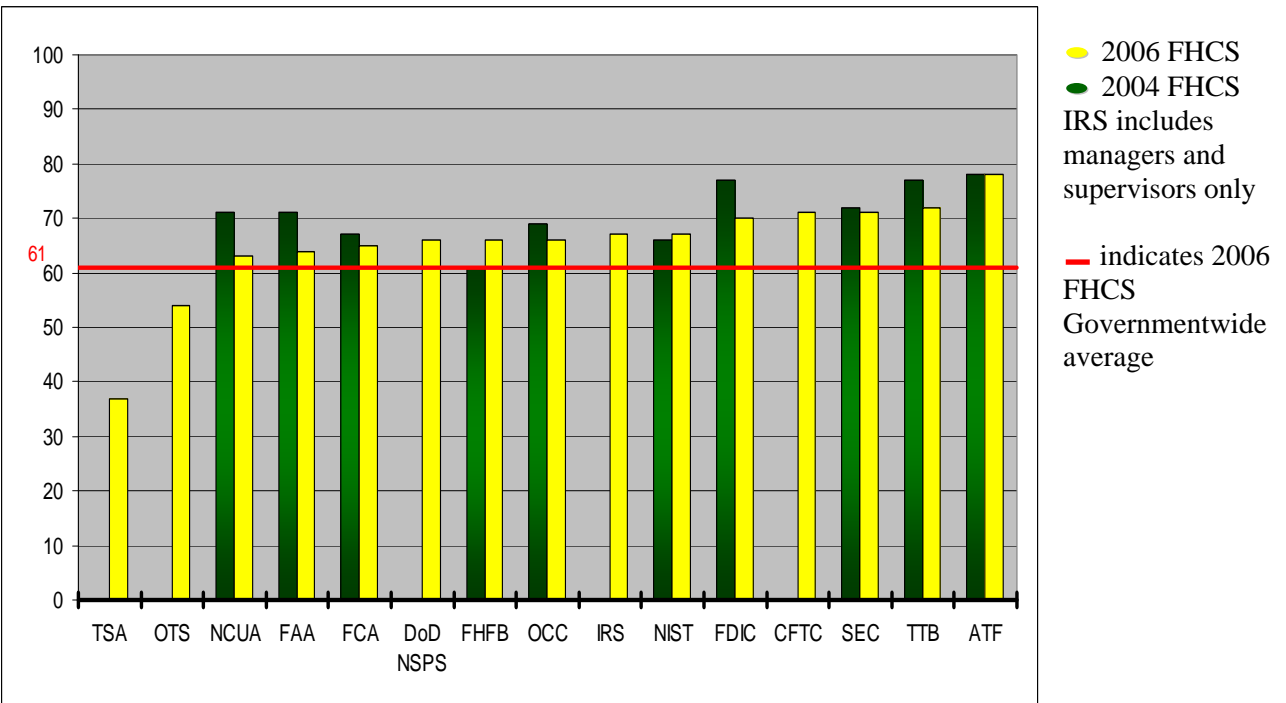


Most performance-based pay systems have pay-setting flexibility. Many agencies have attributed their pay flexibility authority as being the reason they have been able to be competitive with the private sector enabling them to recruit top talent.

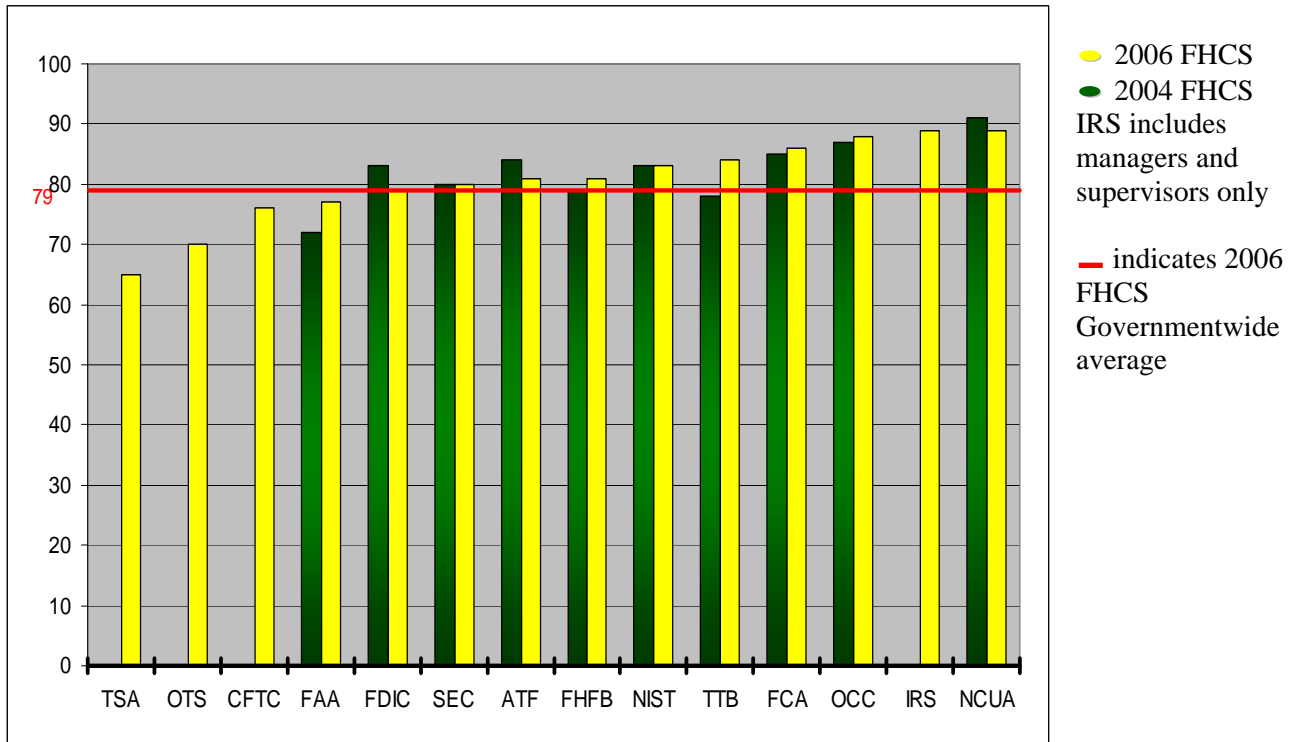
**Figure 9: How satisfied are you with your job? (FHCS)**



**Figure 10: How satisfied are you with your pay? (FHCS)**



**Figure 11: I am held accountable for achieving results (FHCS)**



***NOTE:** DoD did not begin including this question in their Status of Forces Survey – Civilian until 2007; therefore, no 2006 data is shown. The 2007 survey reflected an 86 percent positive response rate to this question.*

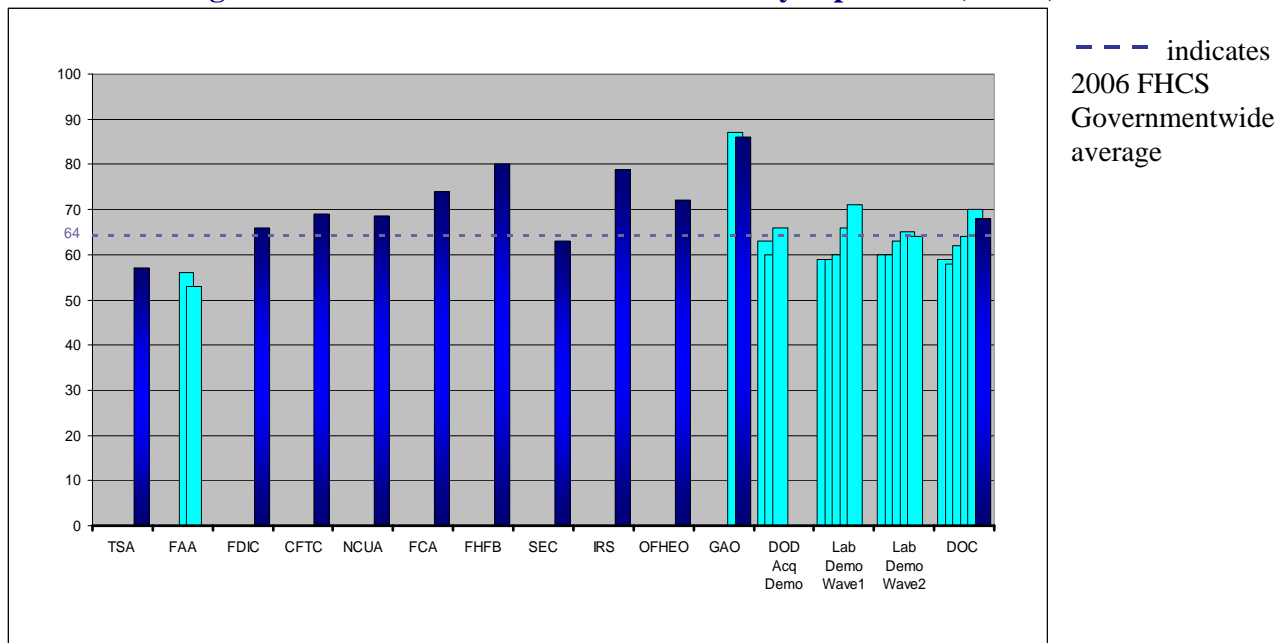
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## Appendix

Data provided in the following charts were obtained from agency annual employee surveys or reported in various agency demonstration project evaluation reports. These results are provided in the appendix for information only and to show agency trends where data are available. The data are not incorporated into the FHCS results since these surveys are managed by individual agencies and survey deployment and reporting protocols differ from agency to agency. While a comparison of these results to the FHCS Governmentwide average is not perfect, that result is shown for illustrative purposes.

The reader also will note results are not included for every agency described in this report and AES data may not be available for all agencies where FHCS data is shown. Reasons data are not available range from insufficient survey response size to provide statistically valid results, to insufficient demographics to segregate responses from those individuals included in an APS versus those who are not. In some cases, smaller agencies did not begin deploying an AES until 2007.

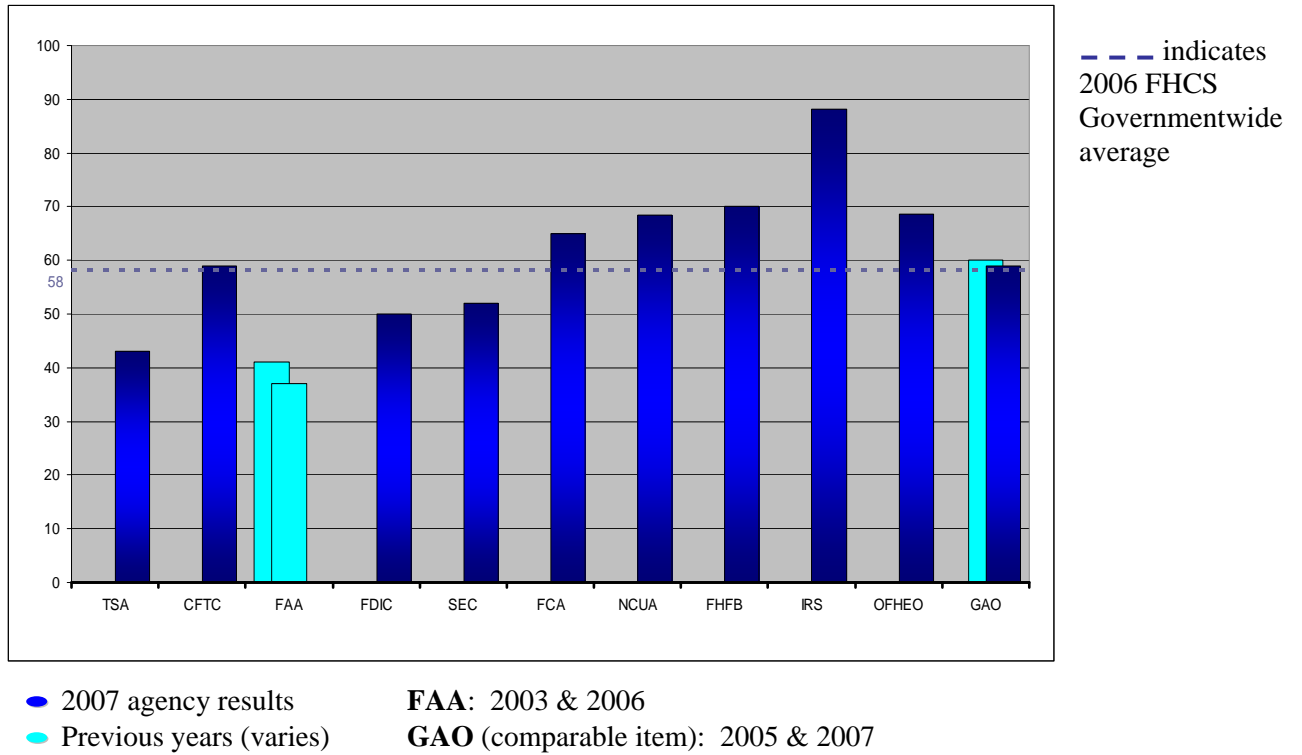
**Figure 12: I have trust and confidence in my supervisor (Other)**



- 2007 agency results
- Previous years (varies)

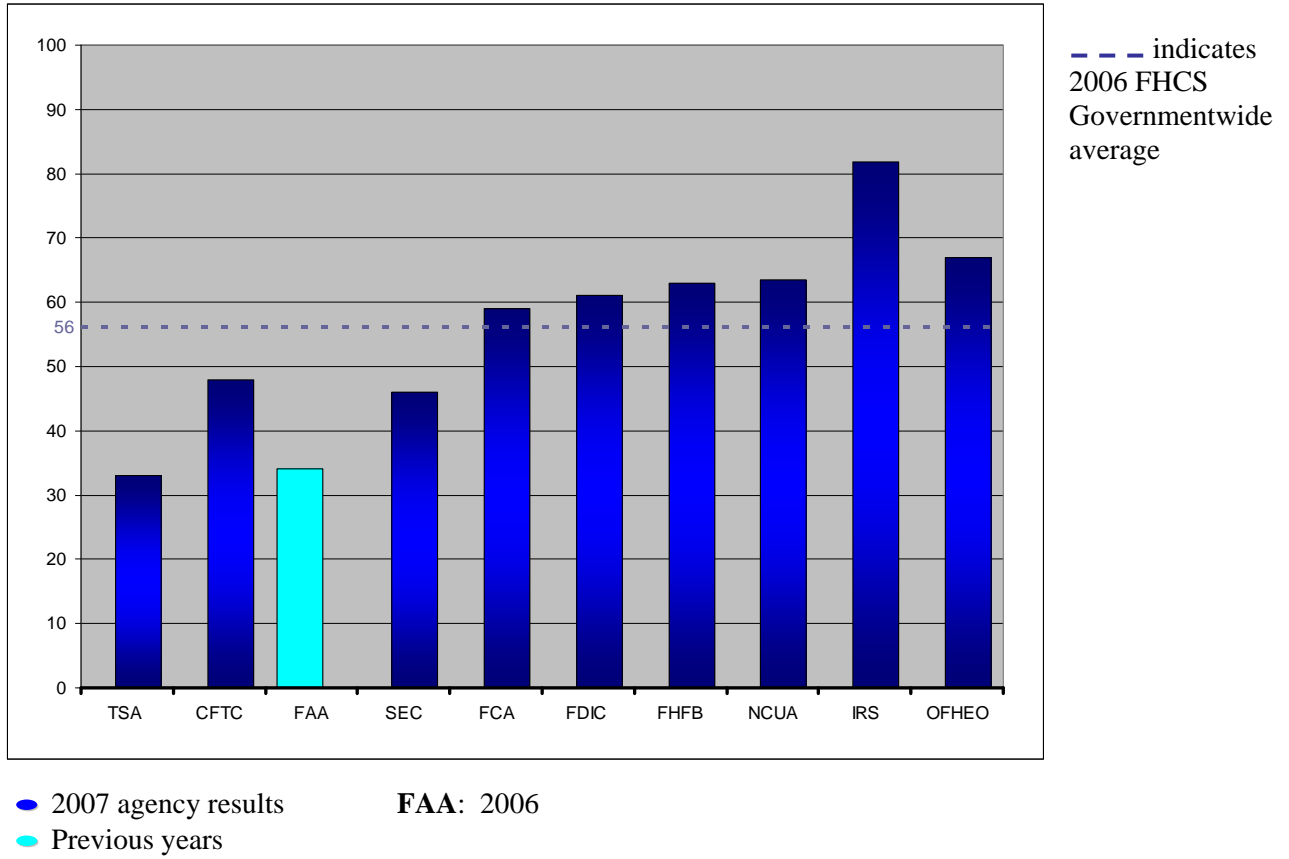
**FAA:** 2003 & 2006  
**GAO (comparable item):** 2005 & 2007  
**DoD Acq Demo:** Trend since 1998  
**DoD Lab Demo:** Trend since 1996  
**DOC:** Trend since 1998

**Figure 13: Managers communicate the goals and priorities of the organization (Other)**

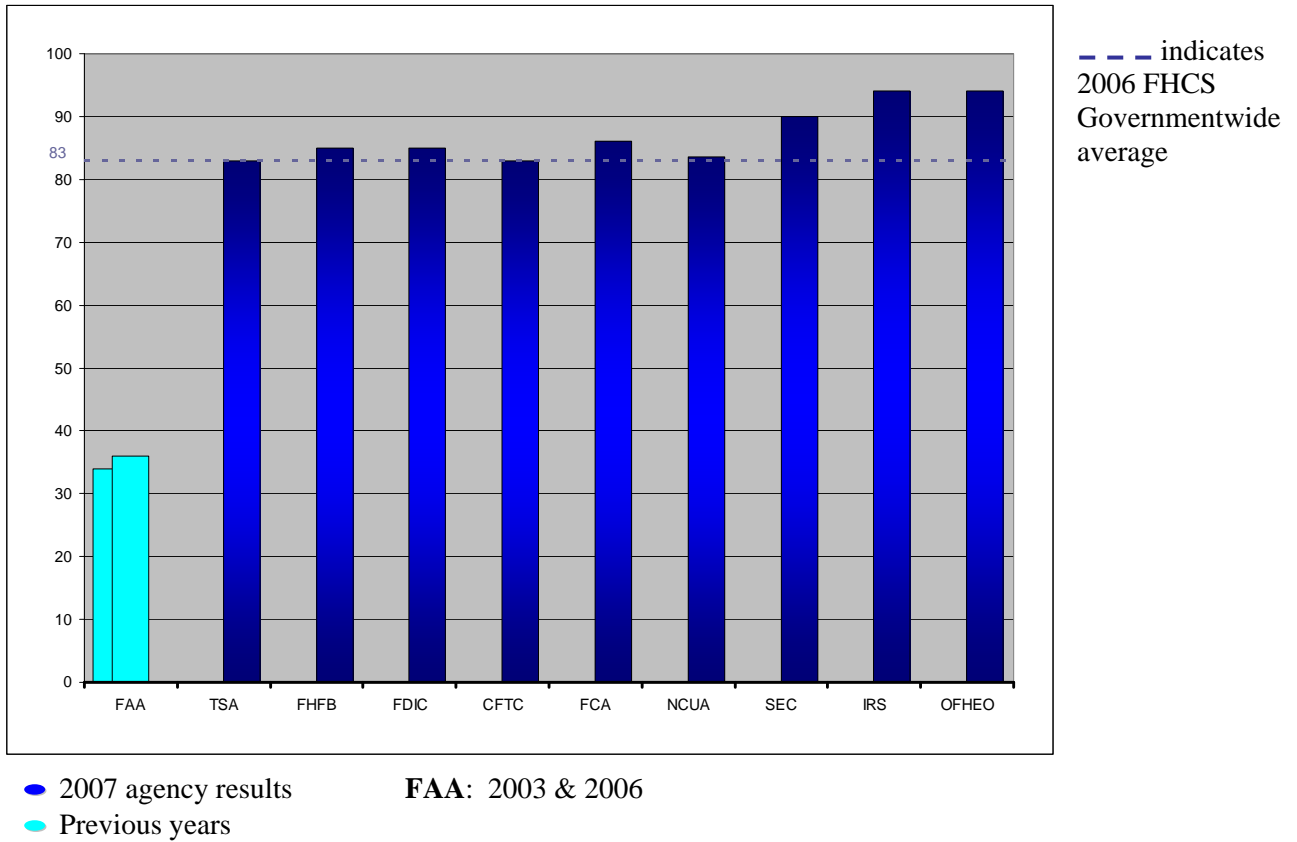




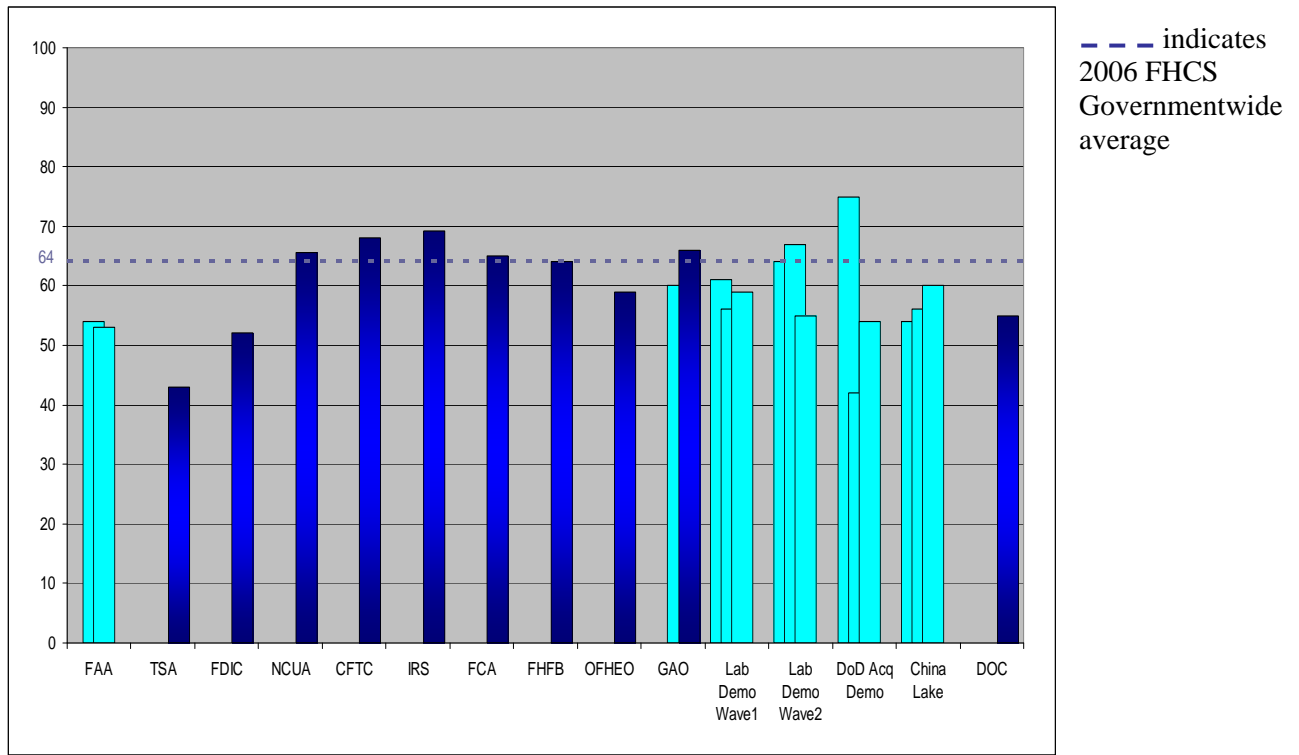
**Figure 14: Managers review and evaluate the organization's progress toward meeting its goals and objectives (Other)**



**Figure 15: I know how my work relates to my agency's goals and priorities (Other)**



**Figure 16: My performance appraisal is a fair reflection of my performance (Other)**



● 2007 agency results

● Previous years (varies)

**FAA:** 2003 & 2006

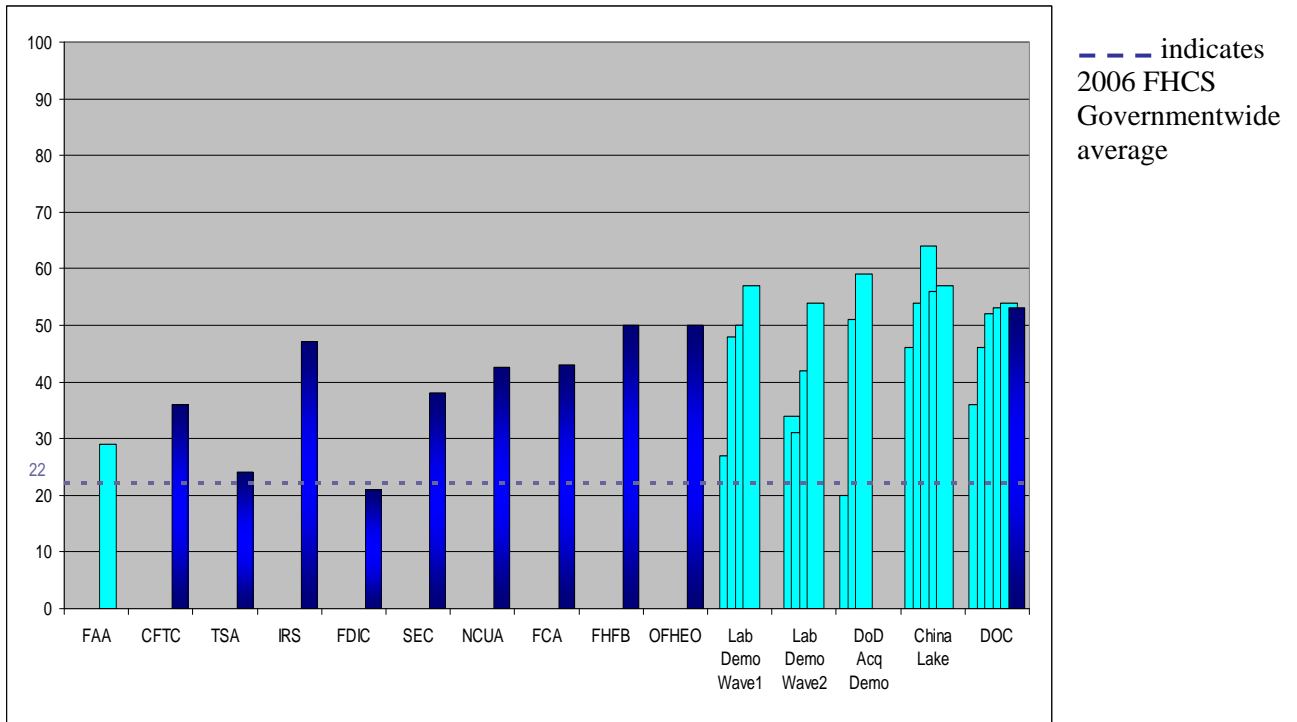
**GAO (comparable item):** 2005 & 2007

**DoD Lab Demo:** Trend since 1996

**DoD Acq Demo:** 1998, 2000, 2003

**China Lake (comparable item):** Trend since 1981

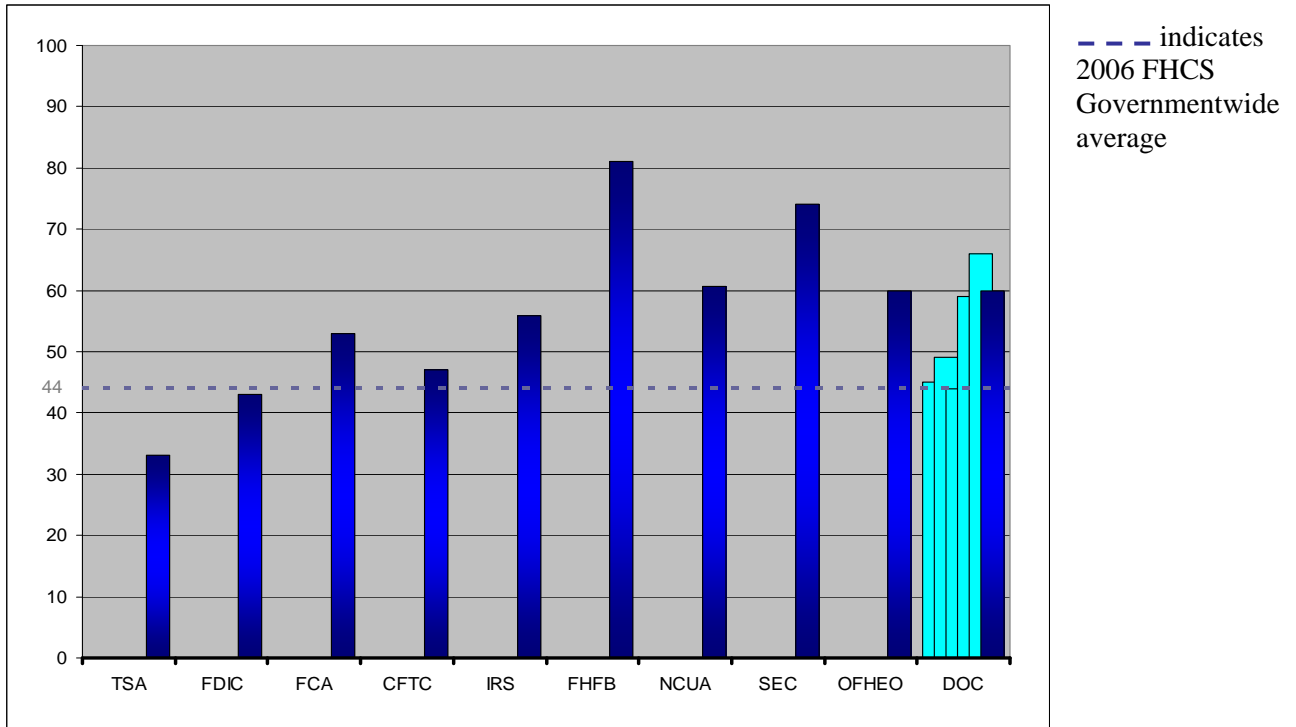
**Figure 17: Pay raises in my work unit depend on how well employees perform their jobs (Other)**



- 2007 agency results
- Previous years (varies)

**FAA:** 2006  
**DoD Lab Demo:** Trend since 1996  
**DoD Acq Demo (comparable item):** Trend since 1998  
**China Lake (comparable item):** Trend since 1981  
**DOC:** Trend since 1998

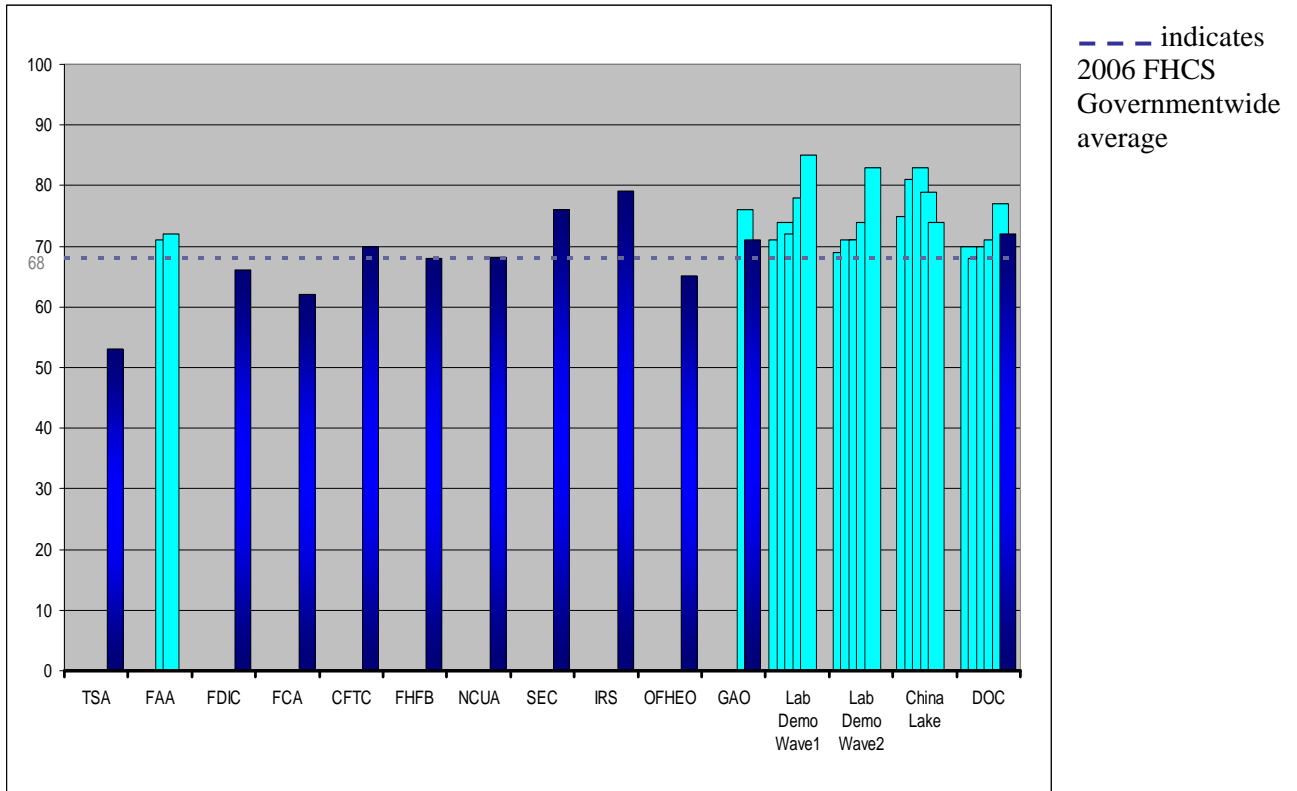
**Figure 18: My work unit is able to recruit people with the right skills (Other)**



- 2007 agency results
- Previous years (varies)

**DOC: Trend since 1981**

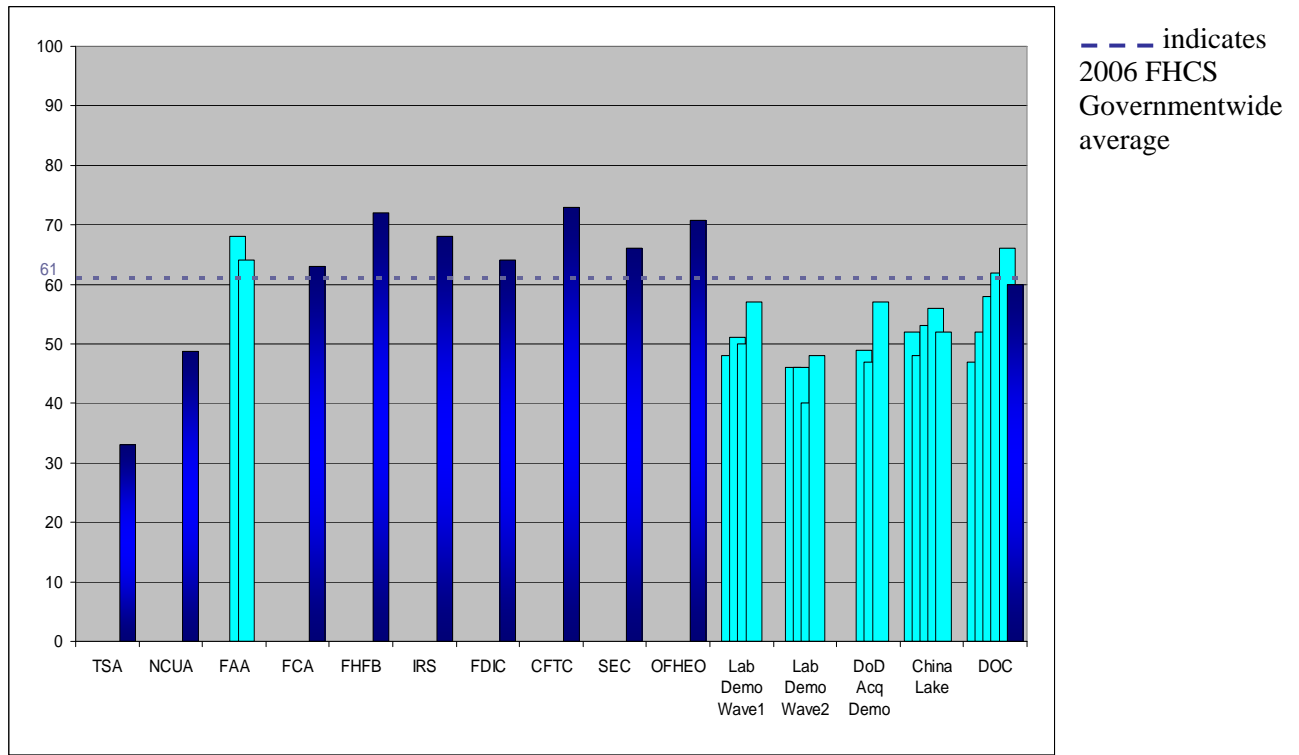
**Figure 19: How satisfied are you with your job? (Other)**



- 2007 agency results
- Previous years (varies)

**FAA:** 2003 & 2006  
**GAO:** 2005 & 2007  
**DoD Lab Demo:** Trend since 1996  
**China Lake (comparable item):** Trend since 1981  
**DOC:** Trend since 1998

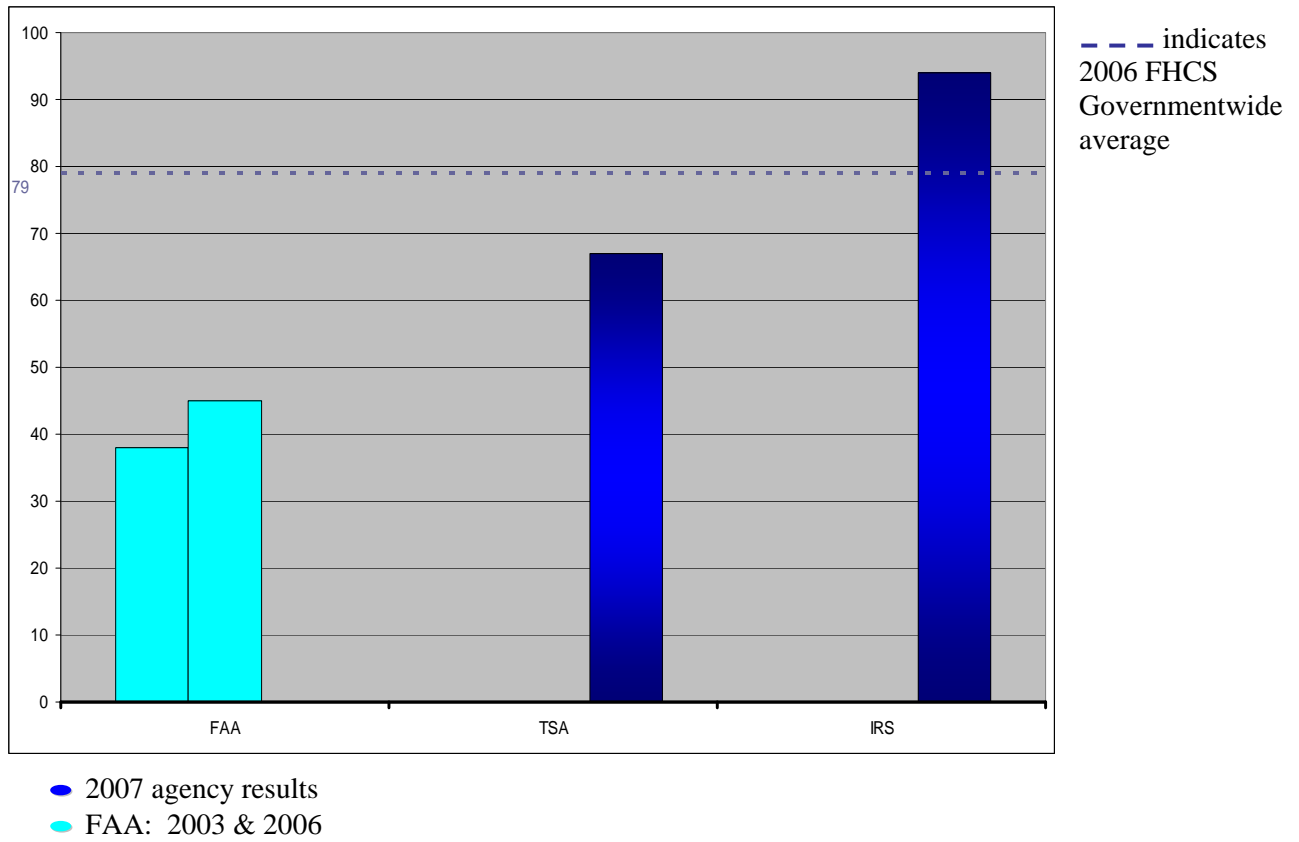
**Figure 20: How satisfied are you with your pay? (Other)**



- 2007 agency results
- Previous years (varies)

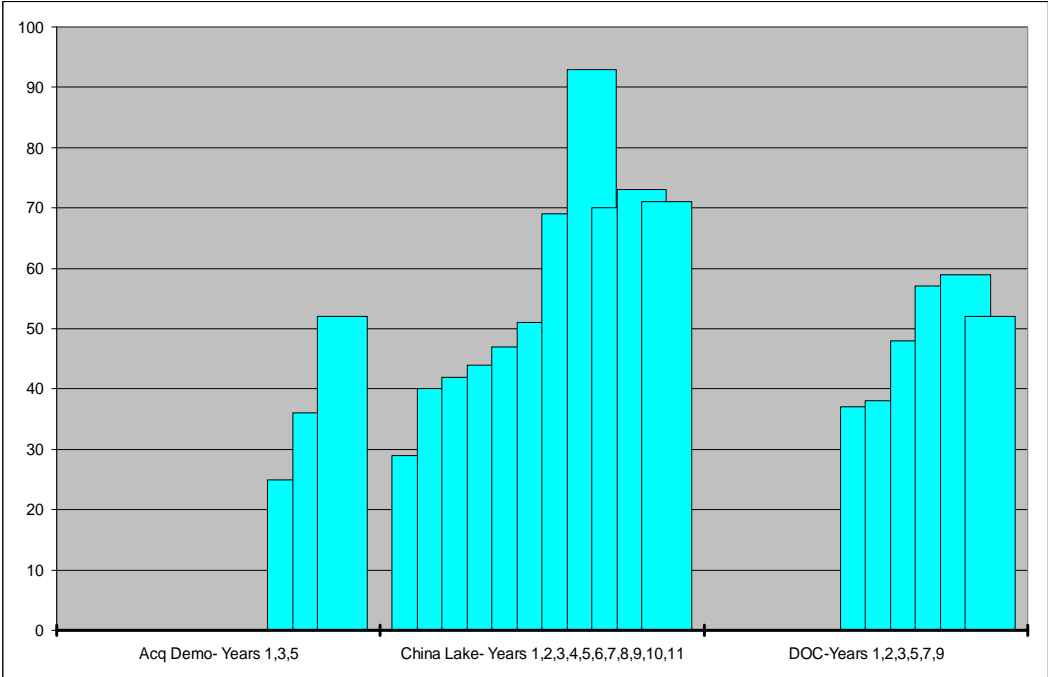
**FAA:** 2003 & 2006  
**DoD Lab Demo:** Trend since 1996  
**DoD Acq Demo:** Trend since 1998  
**DoD Demo & DoD NSPS:** 2006 & 2007  
**China Lake (comparative item):** Trend since 1981  
**DOC:** Trend since 1998

**Figure 21: I am held accountable for achieving results (Other)**





**Figure 22: I am in favor of the demonstration project**



Trend since 1998

Trend since 1981

Trend since 1998



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