

STATEMENT BY MARICK F. MASTERS

BEFORE

THE SUBCOMMITTEE ON READINESS
HOUSE COMMITTEE ON ARMED SERVICES

REGARDING

THE NATIONAL SECURITY PERSONNEL SYSTEM
OF THE DEPARTMENT OF DEFENSE

MARCH 6, 2007

Mr. Chairman and Members of the Committee:

My name is Marick Masters, and I am a professor of business and of public and international affairs at the University of Pittsburgh, where I have been employed since 1986. I teach in the areas of human resource management, negotiations, conflict resolution, and labor-management relations. I have studied federal-sector labor-management relations episodically since the early 1980s. I also am a co-equity partner in a consulting firm (AIM Consultants) with offices in New London, CT and Pittsburgh, PA.

In the interest of time, I have kept my testimony brief. If there are questions to which you would like me to respond in more detail, or additional information I can provide in writing, I would be happy to do so. In the interest of full disclosure, I should note that I am a former candidate for the U.S. Congress (for the Democratic nomination in the 18 congressional district, PA, in 1992) and I received contributions from some federal-employee and postal-employee union PACs. I have tried to be objective in this testimony. I consult with management and labor, more often with the former, on a variety of issues, including advising on bargaining strategy.

I am here to focus on the National Security Personnel System (NSPS) of the Department of Defense (DoD). I am sure that you are familiar with the background of the reform initiative and its various details as it has evolved, so I will dispense with detailed descriptions of the various proposals undergoing implementation. My remarks focus on the (1) plan overall; (2) pay-for-performance aspects of the plan; (3) employee appeals process; and (4) labor-management relations system. I realize that the courts have enjoined the last two elements of NSPS and that legal developments have restricted the implementation of NSPS to non-bargaining-unit employees.

I fully admit it is much easier to criticize inherently complicated initiatives than it is to build them, and that transforming institutions is a very difficult task. I strive to be constructive today, highlighting the positive aspects of the initiatives and raising concerns in the spirit of making transformation fairer and more probable. I believe strongly in a competent and motivated civilian sector in the DoD as essential to providing for the national security and the well-being of our men and women in uniform, one of whom is my son, Sergeant Christopher Masters, who has done two tours of duty in Iraq, beginning in early 2003. I have had the privilege of working with DoD civilian personnel in earlier research projects and found them to be very professional and patriotic individuals.

The NSPS Plan

The NSPS plan, as presented in the final regulations issued on November 1, 2005, addresses several aspects of personnel reform: pay and classification, performance management, staffing, adverse action and appeals, and labor-management relations. The general thrust of the plan is consistent with broader trends in the field of human resource management (HRM) in both the private and public sectors, in the U.S. and globally. A growing body of academic, consultancy, and think-tank literature reveals the spread of various innovations, explores their determinants, and examines their impacts on individual and organizational performance (I cite a few of the recent studies, particularly those that review the literature, in a bibliography at the end of this written testimony).

In a nutshell, the research documents the (1) growing use of variable pay or pay-for-performance programs, (2) increased emphasis on performance-management, (3) implementation and streamlining of disciplinary procedures with appeal rights; and (4) promotion of organizational flexibilities at various levels, including the classification of work, the employment relationship, compensation, and work schedules. Introducing flexibilities is common in the unionized and non-union sectors (negotiating flexibilities in the unionized sector is a globally recognized trend).

I applaud the DoD for the efforts that it has made to make difficult and important changes. Overall, it is moving in the “right” direction, with certain exceptions. Its guiding principles (e.g., put mission first, respect the individual, value talent, be flexible, ensure accountability, and be competitive and cost effective) are indisputably commendable. However, the “devil is in the details,” and a lot often gets lost, despite the best intentions, between principle and practice.

Pay-for-Performance

The DoD’s effort to replace a longevity-based pay-increment process with a more flexible performance-based system is consistent with HRM trends. The academic literature has produced differing theoretical views about pay as a motivator. Recent studies, however, suggest that pay can be a motivating factor, and that financial incentives may work more strongly in the public sector.

Nonetheless, pay-for-performance does not always work and may produce unintended negative consequences. Oftentimes, the problem lies in the specific design and implementation practice.

There are several concerns I raise about the system as designed and partially implemented by DoD in its Spiral 1.1 roll-out. These concerns are based on my review of the plans as designed and some preliminary reports about “mock” implementation, not intimate, first-hand knowledge, so they should be considered in this light.

First, I am concerned that there may not be enough money in the pay pool to make the received salary increases and/or bonuses meaningful enough to be motivating. It is unclear to me that a commitment exists to fund this pool sufficiently.

Second, the process is based heavily on supervisory ratings, and is highly subjective, though it may be very systematic. It is possible, in this regard, to do things precisely wrong. (I know this having worked in a university for a long time.) A lot of judgment goes into delineating objectives, assigning scores, determining share values, assigning share points, and making decisions regarding base-pay increments versus bonuses.

Third, for such a system to work requires that employees and managers have confidence in the system, understand the system (it has to be understandable as well as transparent), and have confidence in the fairness of the evaluators. This confidence is built through employee involvement and training, and exists (or does not exist) in a broader organizational and industrial relations climate affected by a lot of other factors. I am not sure these preconditions exist.

In this regard, I should note that (1) representatives of the Federal Managers Association have testified to some of these same concerns; (2) the Senior Executive Association released a survey in fall 2006, admittedly unscientific, revealing that most senior executive respondents reported that the then-two-year-old pay-for-performance plan had no impact on their performance; (3) a trial run of the rating system at Tinker Air Force Base showed that less than one percent of the test group got an unacceptable rating and 94 percent received ratings at the “valued performer” level and above; and (4) a recent Human Capital Survey shows that 18.4 percent of all DoD respondents are dissatisfied and 8.1 percent are very dissatisfied with their senior leader’s policies and practices. Significantly less than a majority were satisfied.

DoD is right in that there is a problem with pay in the federal sector in general and DoD in particular, with many believing that performance is not adequately rewarded. It is unclear on the surface, however, that what it proposes as a substitute will correct the problem. As designed, the new system is not simple. It will require a lot of training, practice, and trust to work. I am impressed with some of the training materials I have seen. I can tell you from firsthand experience and extensive organizational observation, however, that I would not be surprised if the results are initially disappointing.

Adverse Actions and Appeals

The regulations propose streamlining and expediting the disciplinary and appeals processes. These are commendable goals. The proposed system introduces another layer of review, in which the DoD can review the decisions of the Merit Systems Protection Board's (MSPB) administrative judge or an arbitrator, before a review goes to the full MSPB. The MSPB may "order corrective action only if the Board determines that the decision [of DoD] was—(A) Arbitrary, capricious, and abuse of discretion, or otherwise not in accordance with law..."

Adding another layer hardly seems the path to take if you want to expedite the process. Further, the new layer, coupled with the higher standards for rejecting a management decision, raise questions of procedural justice. Finally, the proposed regulations beg the question of the problem that is being addressed. If the concern is frivolous claims, then this is not the solution. I believe this regulation, if implemented, would encourage behavior to evade the MSPB path and look for available alternatives, with obvious implications.

Labor-Management Relations System

Reforming personnel occurs in a systems context. Reform programs are only as strong as their weakest link. The labor-management relations system proposed by DoD in NSPS is its weakest link. I say this not to advocate a pro-union position. A legitimate question can be raised about the propriety of unions in national security settings. Such is being debated now in the U.S. Senate with respect to airport screeners.

The reality, however, is that the bulk of the DoD civilian workforce is represented by unions. Approximately two-thirds of the roughly 700,000 employees are represented by 43 unions in about 1,500 bargaining units. Implementing personnel change is dependent on winning the cooperation of these unions. The proposed labor-management relations system does little more than frontally antagonize organized labor. If I had an assignment to design a system to promote national-security requirements, I may or may not have come up with the proposed system. If I had an assignment to design a system that minimized collective bargaining without explicitly banning it, I could not have come up with a better plan. This is why the courts have ruled that the plan essentially "eviscerates" collective bargaining. The proposed system shrinks the scope of bargaining, expands the sphere of management rights, and provides for a less than independent National Security Labor Relations Board. It removes from the scope of bargaining agency regulations, issuances, and implementing issuances. It also removes from negotiability appropriate arrangements involving "proposals on matters such as the routine assignment to specific duties, shifts, or work on a regular or overtime basis." Management also "has no obligation to bargain or consult over a change to a condition of employment unless the change is otherwise negotiable pursuant to these regulations and is foreseeable, substantial, and significant in terms of both impact and duration on the bargaining unit, or on those employees in that part of the unit affected by the change."

I shall not comment on the extent to which unions have been involved so far in the design process, as I was not a party to any of these deliberations. I will observe, however, that they felt excluded. Also, meet-and-confer is a very low standard to meet. It is impossible to refute if a meeting has taken place. I might say that a mind is like a parachute; it works best when it is open. I get the impression that the process could have been more open.

Conclusion

I applaud DoD for taking on a difficult task. I applaud the administration generally for paying attention to the management part of the OMB. I, however, have some reservations about the pay-for-performance plan, as designed. But these can be addressed and may have already been to some extent. My principal concern lies in the confrontational approach taken to labor. It does not bode well for implementing NSPS in the union-represented workforce. I will be happy to respond to any questions or comments.

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