

Statement of  
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Under Secretary of Defense for Personnel and Readiness

Before the  
Subcommittee on Civil Service and Agency Organization  
Committee on Government Reform  
U.S. House of Representatives

On  
Proposed National Security Personnel System of "The Defense Transformation for  
the 21<sup>st</sup> Century Act"

April 29, 2003

Thank you for your invitation to discuss our legislative proposal for a National Security Personnel System in the Department of Defense for civilian employees. We look forward to working with the subcommittee and the Congress in considering this proposal.

As I have discussed our personnel transformation proposals with Members of Congress, Congressional staffs, union representatives and interested parties I am asked a number of key questions. Why is DoD in such a hurry for enactment of this proposal? Are we truly ready? Have we used the flexibilities that Congress has already granted us? Have we tested and validated the flexibilities that we want to expand across the Department? Will this system be fair as well as flexible? How confident are we that this new approach won't crash on takeoff? Shouldn't we wait to see what the Department of Homeland Security does first?

These are legitimate questions. We believe we have good answers to them, and an established process for gaining the confidence of our workforce, its employee representatives, and the Congress in moving forward on this proposal. The answers are not academic. They are based on the reality of actually testing personnel management flexibilities for over 20 years in this Department and one full year of Best Practices studies. The proposed National Security Personnel System legislation is general authority to make change. The Best Practices Initiative is our plan to expand tested personnel flexibilities throughout the Department of Defense. I will refer to it later in my remarks.

Ultimately, the validity, credibility, effectiveness, and fairness of a personnel management system depend not just on the words passed into law, printed in

regulation, or distributed in policy. Those are essential and critical. But credibility of a new way of doing business depends primarily on the ideas behind the words and the people who are responsible for implementing them.

What is the guiding principle of the National Security Personnel System, or NSPS as we call it? It is national security. Our military forces have achieved stunning results around the world because they have a system of personnel management that allows them to perform jointly with precision, and agility. The same cannot be said for the current civilian personnel management system, a system that must support a much more joint and agile military management system. Instead, we have a civilian personnel management system in DoD that is fragmented, lacks clear performance signals, and is slow at hiring and task management.

The necessity for a National Security Personnel System goes beyond the general critique of civil service procedures for the Department of Defense. I can best explain this through the words of Mr. Lou Gerstner, the former Chief Executive Office of IBM. In his book, *Who Says Elephants Can't Dance?*, he wrote "I wanted IBMers to think and act like long-term shareholders – to feel the pressure of the marketplace to deploy assets and forge strategies that create competitive advantage. The market, over time, represents a brutally honest evaluator of relative performance, and what I needed was a strong incentive for IBMers to look at their company from the outside in....Nothing, however, was more important to fostering a one-for-all-team environment than a common incentive compensation opportunity for large numbers of IBMers....I had to have all these people thinking as one cohesive unit....I needed to convince IBMers they were better off working as a singular enterprise – one team and not separate fiefdoms. If I could not do that, my entire strategy for turning around the company would fail."

I am not trying to draw an exact parallel between DoD and IBM challenges, workforces, and institutions. But there are some common issues. The key issue, as I see it, lies in one particular line from Mr. Gerstner: "I had to have all these people thinking as one cohesive unit." In the creation of a DoD National Security Personnel System, we are trying to create a system in which people can *think* as one cohesive unit, and then *act*. To think and act cohesively – as we have seen to a stunning degree in the performance of our joint (Army, Air Force, Navy, Marine Corps, and Coast Guard) and combined (American, British, and Australian) forces in Iraq – can literally mean the difference between life and death.

We talk about cohesiveness by using the term "total force." The total force is composed of uniformed personnel (active, reserve, and guard) as well as civilians (federal employees and contractors). Defense civilians touch the Department's

mission to some degree. Some are deployed forward in combat zones. Others walk the hallways of the Pentagon. But, unique in government, DoD civilians form an integral part of an organization that has a military function. Our civilians must complement and support the military around the world in every time zone, every day. This requires a cohesive management system, one that can act with agility.

Let me be clear that I am not saying that national security is presently at risk as a result of the rigidity of the current system of federal personnel management and the chaos of stovepiped personnel systems and authorities with DoD. Our military performance is without parallel and the Defense civilian support is unquestioned. What is wrong is that our civilian employees have to labor under a system of management that stunts opportunity, minimizes rewards, and provides little incentive for risk-taking. Things are not going right when you have the following situations:

- Managers at the Defense Logistics Agency's distribution center in Pennsylvania were forced to disapprove virtually all leave requests for a six-month period due to turmoil created by reduction-in-force actions.
- Supervisors at Fort Riley, Kansas, which has a medical mission, had to send mammography cases to local hospitals while the installation advertised for a radiologist and assisted the person through the recruitment process. The recruitment started in January and ended in August.
- In the Iraqi theater of operations, only 1,500 of the 9,000 civilians supporting the effort are Defense civilian employees. The rest are contractors. We should have the flexibility to identify, deploy, and sustain more of our civilian workforce in these operations, when necessary.

There are other examples. The rigidities of the current federal personnel management system are well documented by the Office of Personnel Management in its white paper "A Fresh Start for Federal Pay: The Case for Modernization" and by the National Commission on the Public Service (popularly known as the Volcker II Commission) in its January, 2003 report, "Urgent Business for America: Revitalizing the Federal Government for the 21<sup>st</sup> Century."

The OPM report states that the "government asks its agency leaders to face new and unprecedented management challenges using an antiquated system. Work level descriptions in law that date back more than 50 years are not meaningful for today's knowledge-driven organizations....(The system's)

prescribed procedures and practices effectively precludes agencies from tailoring pay programs to their specific missions and labor markets.”

The Volcker Commission says that the goal of each agency must be the same: “a commitment to designing a personnel system that best supports its own mission.” The report quotes the Director of the Office of Personnel Management, Kay Coles James, as saying “that continued reliance on this antiquated system is comparable to insisting that today’s offices use carbon paper and manual typewriters.” We could not agree more.

The Congress has recognized these shortcomings by advancing the cause of flexibility and competitiveness in DoD civilian human resources management. Congressional action paved the way twenty years ago for the groundbreaking work in pay banding at the Navy’s China Lake facility. The Congress also enacted the first federal program of separation buyouts that avoids the human and economic toll of reduction in force, authorized critical personnel demonstration projects in the defense acquisition workforce and in defense laboratories and testing centers, provided flexibility in paying for academic degrees, and created scholarships to attract, advance, and keep those with information assurance skills. The Department has some 30,000 employees covered by nine personnel demonstration projects. These innovations and experimentations over many years have demonstrated that a more flexible and collaborative system of human resources management, providing greater opportunity for employees and more responsibility for managers, can lead to greater productivity and improved morale that are critical to mission support. And, finally, as you know, the Congress enacted legislation that provides governmentwide authorities for greater personnel management flexibility for the Department of Homeland Security.

As a result of the flexibilities that Congress gave the Department, the Office of Personnel Management reported the following results from an assessment of science and technology laboratory demonstration programs:

- “As a result of pay banding, the laboratories can offer higher (more competitive) starting salaries than is possible under the General Schedule (GS) system.”
- “(M)anagers...who had used (categorical rating) felt that it had improved hiring timeliness...and...provided a larger pool of qualified candidates....There was no significant difference in the percentage of veterans hired under categorical rating and the “rule of three.””
- “(R)egression analyses show that performance is becoming an increasingly important predictor of pay over time in the demonstration labs.... (performance and contribution) has become the strongest predictor of pay...(and)...tenure is no longer significant.”

The Department faces a chaos of competing personnel systems and authorities. We have not waited for legislation to address the problem. Changes in the characteristics of our workforce, the challenges we face in the national security arena, and the competitiveness of the marketplace for talent, demand a strategic approach to managing our valued employees. We have tried to take strategic steps to address the problems in our system of personnel management. We have done so through our Best Practices Initiative. We started this project more than one year ago. Its purpose was to boil down the best human resources management concepts and practices from those in and outside of the Department of Defense.

The work of the Best Practices Initiative has been accomplished through working groups and an executive panel that represent both headquarters and field personnel from the acquisition, laboratory, and human resources communities. It has been a challenging process as any of the participants can testify.

We are in the process of discussing the work of this initiative with labor as well. It may be asked: why did we not engage labor at the outset of the effort if we wished to include them in the process? The answer is that we believed that having a more fully developed proposal would facilitate and focus dialogue. Additionally, labor was involved in the implementation of all of our existing demonstration projects from which Best Practices emerged.

On April 2, the first Federal Register notice was published announcing our intent to expand these flexibilities within the Defense laboratory and testing center community. We plan a similar Federal Register notice with respect to the defense acquisition community in the near future. To implement flexibilities beyond those communities would require legislative authority – the kind of legislative authority we now seek.

Two urgent concerns drove this legislation. The first is that the current industrial age civil service system is not agile enough to help us fight the war on terrorism and transform the Department. The second is that fragmentation of authorities and practices within the Department is costly in terms of strategic focus, corporate awareness of personnel challenges, competitive recruitment, timely retention, departmental mobility, automation requirements, administrative support, and manpower. Underlying the need for change is the need to retain core civil service values, to continue to accommodate veterans' preference, and to respect labor bargaining. We seek to fold the innovative practices used in our various demonstration projects and alternative personnel systems into a more joint, flexible, and expanded plan of civilian human resources management. The Department cannot continue to operate effectively or efficiently with the current civilian personnel management authorities. The Department must have an

enterprise-wide approach to personnel management that is not fragmented functionally and still provides flexibility to meet diverse requirements. We now operate under nine titles of the United States Code, orchestrate nine personnel demonstration projects covering over 30,000 employees, manage over 50 different pay plans, and support several alternative personnel systems.

I would like to go into some detail about the Best Practices Initiative. For it is here that I believe we can demonstrate readiness to implement personnel management flexibilities on a larger scale and in a manner that is balanced and fair.

Best Practices seeks to energize performance by providing greater rewards for employees and more responsibility and accountability for managers in making performance decisions. It ensures that no employee is harmed while converting to the new system of management. The Best Practices Initiative covers three areas: compensation, recruitment, and performance management. It remains within the boundaries set by Congress in the flexibilities already granted the Department in terms of pay and recruitment. Under compensation, the proposal includes pay banding, pay for performance, and revamped annual bonus and salary calculations. Under recruitment, the proposal would refer more candidates than the current "rule of three" allows while honoring veterans' preference, simplifying appointing authorities, and providing flexibility in hiring from colleges. Under performance management, the system would link pay to performance, provide a standard methodology for calculating awards, and provide flexibility to managers in weighting the common performance factors.

Under the Best Practices Initiative, candidates for DoD employment would see faster hiring, faster processing, greater opportunity, and more accountability. Employees would see conversion into the system without harm, job changes simplified, appraisals more meaningful, and rewards greater. Finally, managers would see management rewarded with significant supervisory adjustments, the ability to move employees to job assignments necessary for the completion of their mission, and greater accountability for fairly and clearly assessing performance.

It is often said that the devil is in the details, that best intentions may be overcome by wrongheaded implementation. We welcome scrutiny of the details of our implementation. That is why we think it is particularly useful that we have recently published the Best Practices in the Federal Register. One of the comments made about our pay for performance system was that supervisors will be the big winners in all this, as they are guaranteed substantially higher salaries than those they supervise, regardless of the jobs of the non-supervisory staff. That is untrue. In fact, supervisory pay adjustments are not guaranteed. They are not certain – management has the flexibility to pay up to a specified percentage. A

rating review board, mandated by our Best Practices model, has the additional authority to recommend to higher level management that supervisory pay be reduced or eliminated where supervisors are not managing their employers properly.

The Best Practices Initiative only covers the functional communities where we already have authority in statute. This could include as many as 150,000 employees. As a matter of ensuring our future national security, we need the authority to extend these Best Practices to the entire Department of Defense, and to add to them based on the lessons we have learned. Mission shifts and organizational changes demand increased management flexibility. Recruiting at job fairs requires expedited hiring authority. Employees who perform well like pay for performance. Without these new authorities, we will not be able to hire the replacement generation of federal employees as the current generation retires. We will not be able to reward the best performers properly and thus will not be able to attract the strongest performers in the first place.

Let me now describe in more detail the provisions of our proposed system.

NSPS provides broad legislative authority for establishing a new civilian personnel management system that is like that for the Department of Homeland Security, tailored to DoD. DoD is not abandoning the civil service. The legislation simply adds a new chapter – 99 – to title 5. The proposal preserves the time-honored and time-tested civil service principles of competitive selection; fair and equitable treatment of employees; equal pay for work of equal value; effective training and education that results in better individual and organizational performance; and protection against arbitrary and capricious actions and against reprisals for whistleblowing. We continue to value and respect veterans' preference in staffing actions. Those protections are explicitly recognized in the legislation. And we continue to respect the role of labor bargaining.

In general, NSPS differs from the Department of Homeland Security provisions in the following ways. NSPS is explicit in assuring that the Department will bargain with labor over the new system, and that such bargaining would occur at the national level. It provides a waiver to jointly prescribed regulations where the Secretary certifies that a provision is essential to the national security, subject to the direction of the President. In addition, it provides additional flexibility in staffing, pay administration, and training. Finally, NSPS would authorize various other flexibilities. In general, a flexible NSPS would balance principles of accountability and collaboration. Permit me to summarize its principle provisions.

Accountability. The system developed must comply with provisions in current law relating to political activity, oath of office, access to criminal history records

for national security and other purposes, the Ethics in Government Act, and the Inspector General Act. The Department is committed to the principle that employees of the Department are entitled to fair treatment in any appeals they may bring relating to their employment and will consult with the Merit Systems Protection Board before issuing any regulations.

Collaboration. As with the DHS law, the proposed section 9902 would ensure that labor representatives are engaged in the planning, design, and implementation of any new personnel management system. As with the DHS law, the Department would be required to consult with labor union representatives for at least 30 days, mediate differences over a 30-day period, and notify Congress of those differences and the reasons for proceeding before implementation. At the same time, DoD would ensure that bargaining with labor occurs, but at the national level, in order to facilitate an efficient and effective dialogue.

We wish to focus attention on the fact that this flexibility, which allows us to waive the provisions of chapter 71 of title 5, United States Code, is the same flexibility afforded the Department of Homeland Security. We could have left out the provision for national level bargaining. But we felt it was critical to reassure our union colleagues, their leadership and membership, that we intend to continue to work with unions in a collaborative manner. And, we wish to make clear that there is no interest or intent in eliminating the role of local bargaining units to bargain over issues that are local in nature. Local bargaining units have and will continue to have a valuable role to play.

Separation and Retirement Incentives. Proposed section 9902 would provide authority for the Department to offer Voluntary Separation Incentive Pay (VSIP) for both workforce reductions and restructuring. As a complementary piece, the Department would have the authority to offer Voluntary Early Retirement Authority (VERA). The Department has had authority to offer VSIPs since 1992.

Provisions Relating to Reemployment. Proposed section 9902 allows for reemployed annuitants to retain their annuity when they are employed in the Department. This provision has been used since the September 11th attacks to bring back key employees who are needed to keep programs operating. (This is also a comparability issue with the current military annuitant authority.)

Contracting for Personal Services. Proposed section 9903 would permit DoD to contract for personal services in several critical areas, including critical staffing support in overseas posts when the State Department is unable to provide such support, such as direct support to Combatant Commanders, Joint Task Forces, the United States Southern Command's Joint Task Force Bravo, the Navy's Counter-Drug Forward Operating Location in El Salvador, and the United States European

Command's Military Liaison Teams working to normalize relations with former Soviet Union countries in Eastern Europe, as well as to provide greater flexibility to the Secretary of Defense in obtaining the services of experts and consultants.

Highly Qualified Experts. Proposed section 9904 would authorize DoD to hire highly qualified experts for up to five years, with the possibility of a one-year extension, and to prescribe the appropriate compensation program. It is consistent with the authority now available to the Defense Advanced Research Projects Agency, similar to programs in the Transportation Security Administration and a highly rated program of the Internal Revenue Service as reflected in a study by the IBM Endowment for the Business of Government, "Modernizing Human Resource Management in the Federal Government: The IRS Model."

Older Americans Employment. Proposed section 9905 would authorize the Secretary of Defense to hire American citizens 55 years of age and older to work for the Department of Defense for up to two years, without a reduction in any retirement benefits, to fill needs that are not otherwise met by civilian employees. This provision will allow the Department to employ a key segment of the American population.

Overseas Pay and Benefits. Proposed section 9906 would authorize DoD to align the allowances and benefits of certain employees outside the United States with those of the Foreign Service and the Central Intelligence Agency. The Defense Intelligence Agency already has this authority.

Conforming Amendments. Finally, the proposal would realign various civilian personnel demonstration projects with the National Security Personnel System by repealing their existing authorities, including the projects covering the Naval Weapons Center, China Lake, California and the Naval Ocean Systems Center, San Diego, California, defense science and engineering laboratories and centers, and the acquisition workforce demonstration project, as well as special hiring and pay authorities currently provided to the Defense Advanced Research Projects Agency and the Military Departments for scientists and engineers. To prevent any negative impact on the personnel covered by these projects during the transition to the DoD-wide human resources management system authorized by the section, the Secretary of Defense would authorize each of these projects to continue in place under the authority of chapter 99 until the new system was established and implemented.

Implementation of a National Security Personnel System will require months of coordination, communication, training, orientation, feedback, and adjustment. We will work with the various Defense Components to ensure that implementation moves on a timetable that serves their missions and is helpful to employees.

The proposal for a National Security Personnel System is a step toward the managerial flexibility envisioned in the President's Managerial Flexibility Act. NSPS is a pillar in the Secretary of Defense's efforts to transform the way we fight and manage. The Secretary has rightly stated, "as we prepare for the future, we must think differently and develop the kinds of forces and capabilities that can adapt quickly to new challenges and to unexpected circumstances. We must transform not only our armed forces, but also the Department that serves them by encouraging a culture of creativity and prudent risk-taking. We must promote an entrepreneurial approach to developing military capabilities, one that encourages people to be proactive, not reactive, and anticipates threats before they emerge."

Let me conclude with another passage from Mr. Gerstner's book:

"For much of my business, it has been dogma that small is beautiful and big is bad. The prevailing wisdom has been that small companies are fast, entrepreneurial, responsive, and effective. Large companies are slow, bureaucratic, unresponsive, and ineffective. That is pure nonsense. Breadth and depth allow for greater investment, greater risk taking, and longer patience for future payoffs. It isn't a question of whether elephants can prevail over ants. It's a question of whether a particular elephant can dance."

We know this particular elephant, DoD, dances very well on the battlefield. With the help of Congress, we will ensure that this particular elephant can also dance very well in the office network.

Thank you again for this opportunity to appear before you. I will be glad to answer any questions you may have.