

Testimony
of

Colleen M. Kelley
National President
National Treasury Employees Union

on

Recruiting and Retaining America's Best
For the Federal Civil Service

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Chairwoman Davis, Ranking Member Davis, thank you very much for giving me the opportunity to come before you today to discuss the need for improved recruitment and retention tools in the federal government. I am Colleen Kelley, the National President of the National Treasury Employees Union (NTEU) and I appear today on behalf of the more than 150,000 federal employees and retirees represented by NTEU.

I, as well as the NTEU members I speak for, appreciate the fact that as Chair of the House Civil Service Subcommittee, you have made clear your intention to work to make sure federal agencies have the proper tools to allow them to not only hire, but inspire the best workforce in the Nation. Turning the federal government's human capital crisis around will require determination and resources and I look forward to working with you toward that goal.

NTEU continues to believe that a major step toward making the federal government the employer of choice is a commitment by Congress - and the Administration - to establish an open and honest process for setting federal salaries. As you know, Congresswoman Davis, for two years in a row now, despite a bipartisan and bicameral commitment to pay parity between the

Nation's military and civilian employees, the President has chosen to implement a smaller pay raise for civilian employees, only to see that raise overturned by subsequent Congressional action.

In 2003, Congress made clear its belief that because federal civilian employees work side-by-side with the men and women of our armed forces to ensure the security of the United States, they deserve the same recognition and the same pay raise. I want to take this opportunity to thank you for your support of pay parity and for your cosponsorship of H.Con.Res.19, the Pay Parity Resolution.

Despite the early and consistent bipartisan support for this established concept from you and others, when Congress did not complete action on the 2003 appropriations bills before the end of the calendar year, the Administration ignored Congress' intent and implemented a lower pay raise for the federal workforce. Although the 4.1% pay raise was ultimately signed into law and granted to federal civilian employees, it took months for that raise to reach their pocketbooks.

The enormous waste of taxpayer money associated with recalculating federal pay raises was only the tip of the iceberg. The message that federal employees received - that they are not

as important, that they are not valued and that their work is somehow less important than that of their uniformed counterparts - that is where the real damage was done.

In 2004, Congress again affirmed its support for the concept of pay parity, granting both uniformed and civilian employees an average 4.1% pay increase. Again, the Administration ignored Congress' intent, implementing a 2% federal pay raise. I am sure you would agree that the message federal employees have taken from these incidents is **not** the message any of us would choose to send.

Once again, federal civilian employees must wait for the pay raise their uniformed counterparts have already received. While the pay raise is retroactive to the first pay period of 2004, before it can take effect, another Executive Order must be issued. Then the Office of Personnel Management (OPM) must issue new salary tables. Only then can retroactive pay adjustments begin to be programmed into pay systems. I am told that it could be several months before all federal employees receive the full pay raises Congress approved.

As you know, another key consideration for prospective employees considering career options is the availability - and cost - of health insurance. Unfortunately, this is another area

where the federal government is often not able to effectively compete with its private sector counterparts. Health insurance premiums for plans within the Federal Employees Health Benefits Program (FEHBP) have risen sharply in recent years - rising 45% since 2001 alone. These rate increases far outpace federal salary increases during the same period, forcing an increasing number of enrollees to examine whether or not they can continue to afford the coverage.

The federal government as an employer pays an average of 72% of the health insurance premium for its employees. A great many state, local and private sector employers recognize the importance of health insurance to their benefits packages and absorb a greater share of the premiums than the federal government does. Most large employers pay an average of 80% of the health insurance premium for their employees and NTEU believes the federal government should follow suit. NTEU continues to support bipartisan legislation pending before both the House and the Senate (H.R.577, S.319) that seeks to increase the federal government's share of the premium from an average of 72% to an average of 80%. It is my understanding, Chairwoman Davis, that you plan to hold hearings later this year on the FEHBP and NTEU looks forward to working with you on the many critical issues surrounding the federal health benefits program.

NTEU believes that this Administration's march to contract out as much of the work of the federal government as possible is yet another disincentive to federal employment. Student loan forgiveness and continuing education programs, child care subsidies, family friendly programs and new and creative rewards and incentives will do little to attract the Nation's youth to the next generation of federal employees if we cannot convince them that we are interested in their committing to a career in public service.

Too often, the view I hear from the employees NTEU represents is that contracting out without rhyme or reason has gone on for too long now. That it has eroded the morale of the best employees the federal government has to offer. That it has disrupted agency operations and discouraged prospective employees from applying. That there is so little oversight and accountability in the contracting already occurring that it turns employees stomachs.

Congressman Van Hollen attempted to bring some order to the federal government's contracting process last fall with the amendment he successfully added to the FY 04 Treasury Appropriations bill. I want to personally thank you, Congresswoman Davis, for your support of that amendment. The Treasury Appropriations bill was ultimately folded into the

Omnibus Appropriations measure and much of the contracting language that sought to level the playing field for federal employees was stripped from the final product in a post-conference effort by the Administration to exert their will. Nonetheless, NTEU appreciates your recognition of the fact that there is room for improvement in the contracting out of federal jobs. We hope to continue to work with your office to enact much-needed reforms in this area.

NTEU also wants to comment on the bills pending before this Subcommittee today. NTEU worked closely with Senator Voinovich and Senator Akaka's offices on the version of S.129, the Federal Workforce Flexibility Act, that has been approved by the Senate Governmental Affairs Committee and we are pleased that your Subcommittee plans to move the House counterpart, H.R.1601, as well.

The General Accounting Office (GAO) has undertaken a number of studies focusing on the importance of designing and using effective human capital flexibilities. In one recent report (GAO-03-2), the GAO found that the flexibilities that are most effective in managing the federal workforce are those such as time off awards and flexible work schedules. In other words, flexibilities that allow employees to take time off from work - when it is most convenient for both the agency and the employee -

and better balance their work life and family responsibilities.

NTEU is particularly pleased that S.129 contains language that we believe will go a long way toward addressing these family and work life responsibility issues. As the Chairwoman knows, federal employees are increasingly required to travel for official business on their own time and under current law, can be compensated for travel time that is outside their regular working hours only in limited circumstances. The provision that is now part of S.129 would provide federal employees with compensatory time off for time spent in official travel status that is not otherwise compensated.

Under current law, employees covered by the Fair Labor Standards Act (FLSA) who are required to travel on official business, are compensated for their travel time as long as that time is within the employee's regular duty hours, even if the travel occurs on a Saturday or Sunday. In other words, if an employee regularly works 9 to 5, then travel between 9 and 5, even if it occurs on a Sunday would be compensated. An employee who elects to travel early on a Monday morning for a Monday meeting would receive no compensation for his or her travel time if that travel took place before 9 am. If, on the other hand, the employee elected to travel on Sunday, the travel time would be compensated as long as it occurred between 9 and 5. This is

particularly nonsensical because the employee who elects to travel on Sunday will also cost the federal government hotel and per diem expenses by having to spend the night away from home prior to the Monday meeting.

Not all federal employees are covered by FLSA rules, and instead are covered by the Federal Employee Pay Act (FEPA). Federal employees covered by FEPA receive no compensation for time spent on official government travel unless the time falls within the employee's regular workweek or unless other conditions are met. Most notably, that travel time can only be considered work if it results from an event that could not be scheduled or controlled administratively. Because travel to perform work assignments or attend trainings or continuing education courses is considered administratively controllable, the travel time outside an employee's regular working hours is not considered work time. Simply traveling for one's job, even though the individual may be required to do so as a condition of his or her employment, is generally not considered work. This increasingly puts federal employees in the position of donating their time to the federal government.

NTEU members have shared many examples with me of how current rules have impacted their working lives. For example, an IRS employee in Lincoln, Nebraska is required to visit a taxpayer

in Columbus, Ohio. The taxpayer requests a 1:30 pm meeting which results in the employee being unable to complete the work prior to the end of the business day. The employee elects to work an extra hour or two and complete the assignment in one day. By the time the employee returns home for the evening, he has effectively donated several hours of work and travel time to the federal government. Had the employee elected to spend the night in Columbus and finish the job the following day instead, the government would have paid the employee's lodging and per diem costs.

Another employee from Missouri points out that when required to visit taxpayers in nearby cities, he is often required to work beyond his normal hours to complete the job. The alternative, he points out, is to end his meeting early (to avoid traveling on his own time) and risk leaving an undesirable impression on the taxpayer and the taxpayer's attorney as well as make the IRS appear unprofessional, something he has too much pride in his work to allow to happen.

In instances such as these, it is almost impossible for employees to keep the best interests of the federal government in mind, present a professional appearance and do their best to avoid unnecessary lodging and per diem costs without putting themselves at a financial disadvantage.

The provision included in S.129 seeks to address these situations. It would authorize compensatory time for travel to perform work assignments, attend authorized training or conferences and for other legitimate purposes. It does not apply to normal home to work commuting time and the compensatory time could not be converted to payment. The Senate report accompanying S.129 (Senate Report 108-223) makes clear that the Committee believes that federal employees are entitled to compensation while traveling on the government's business, especially in light of the fact that work-life programs are among the most effective recruitment and retention tools the government has at its disposal. NTEU heartily agrees with this assessment and hopes that the Civil Service Subcommittee will include this provision in its version of the Workforce Flexibility Act as well. I look forward to working with you towards this end.

NTEU also welcomes the fact that the legislation before the Subcommittee today draws long overdue attention to the federal government's need to properly train its employees. An investment in training and workforce development will reap rewards for federal employees and agencies alike. Often, employees don't receive the proper training to either perform their missions effectively or enhance their abilities and prepare them for advancement within their agencies. Without proper training,

everyone loses. Customers do not receive the best service and employees do not find their work rewarding or challenging. While NTEU supports the training initiative contained in the legislation, we hope that its sponsors will work to insure that agency training budgets are properly funded. In recent years, unrealistic agency funding levels have restricted agencies' ability to adequately train their employees, often forcing agencies to rob from other accounts to perform necessary training.

The legislation also proposes providing additional flexibility to agencies in the use of recruitment, relocation and retention bonuses. Here again, limited agency funding continues to hamper most agencies ability to put these bonuses to better use. Without a dedicated stream of funding for these recruitment and retention tools, the only way agencies will be able to make use of them is by further gouging their training and salary and expense budgets. This is of great concern to NTEU and I encourage the Subcommittee to take steps to ensure that adequate funding is provided for these new bonus options as well.

The legislation also shifts oversight of the federal government's critical pay authority from the Office of Management and Budget (OMB) to OPM, seeks to correct retirement benefit calculations for part-time federal service and reform annual

leave rules for certain new federal employees and members of the Senior Executive Service. This provision would permit the head of an agency to deem a period of qualified non-federal experience as federal service for annual leave purposes. I understand that this provision would apply to mid-career federal employees and that OPM would have the authority to extend similar benefits to other categories of employees. NTEU continues to believe that if annual leave limits are in fact a barrier to hiring, the entire leave system should be reviewed with an eye toward its overhaul. We hope to continue to work with the Subcommittee toward that end.

In conclusion, I want to thank you again for the opportunity to appear before you today. It is vitally important that your Subcommittee continue to hold hearings like this one today so that we may jointly explore solutions to the problems we know the federal government and its employees face. I look forward to continuing to discuss these issues with you and continuing to work together to make the improvements we both know are so necessary.