

THE CIVIL SERVICE AND NATIONAL SECURITY PERSONNEL
IMPROVEMENT ACT

TESTIMONY BEFORE THE UNITED STATES HOUSE OF REPRESENTATIVES
GOVERNMENT REFORM COMMITTEE

PAUL C. LIGHT

WAGNER SCHOOL OF PUBLIC SERVICE
NEW YORK UNIVERSITY

CENTER FOR PUBLIC SERVICE
THE BROOKINGS INSTITUTION

MAY 6, 2003

Thank you for inviting me to testify before this Committee at this critical moment in civil service time. As some of you may know, it was twenty-five years ago that this Committee took up the Civil Service Reform Act of 1978. That statute reflected an effort to modernize a personnel system that had not been reformed since 1946, and addressed many of the issues embedded in the bill before this Committee today. Launched in a bipartisan spirit by the Carter-Mondale Administration, the act was designed to create a new era in human resources management. It contained new procedures for pay for performance, accelerated hiring, and waivers for experimentation. It also created the Senior Executive Service, and sought to modernize the outmoded job classification system that governed the hiring and promotion of civil servants.

I can think of no better way to celebrate the twenty-fifth anniversary of the Civil Service Reform Act than to pass this bill and begin the next generation of reform. Civil service reform is not a Democratic issue or a Republican issue; it is a good government issue. It should be designed first and foremost to assure that talented Americans have the chance to serve their country. As President Carter argued in 1977, the public deserves a government as good as its people. I believe there is overwhelming empirical evidence that this proposal would advance that cause.

ENDORSEMENT OF THE PROPOSAL

Having served as senior adviser to both bipartisan National Commissions on the Public Service chaired by former Federal Reserve Board chairman Paul A. Volcker, I believe this reform package would receive the overwhelming endorsement of the 1989 and 2003 Commissions. Indeed, the 2003 Commission might logically ask Congress and the President “What took you so long?”

The 1989 Commission believed that a “quiet crisis” had already begun, while the 2003 Commission argued that the quiet crisis had reached a desperate moment. The 2003 Commission did not equivocate in its endorsement for action. It urged Congress and the president to move quickly on a variety of fronts, including reorganization authority, presidential appointments reform, and creation of agile personnel systems that reward performance, not longevity. As the 2003 Commission argued, for example, the pay proposals embedded in the Defense Department’s proposal should be the *default* position for departments and agencies. If an agency can come up with something better than pay banding, let it try. But if not, pay banding should be the first option. The burden of proof should be on the current system to demonstrate its relevance to today’s labor market.

I should hasten to add that the 2003 Commission did not believe that further tinkering would suffice. The federal government has had twenty-five years of experience under the 1978 reforms with decisively with mixed results. On the one hand, its efforts to institute several variations of government-wide pay for performance under the 1978 act have produced unacceptable frustration and unacceptable over-grading.

On the other hand, the federal government has conducted a variety of successful experiments, including a half dozen at the Department of Defense that covered more than 30,000 employees, many of which have shown great promise. At some point, the experimentation must end and government must move forward with its best effort to improve the system. The experiments were not designed as ends in themselves, but as precursors to next-generation reform.

Let me also note that reform does not end with a single bill. To the extent this Committee and the General Accounting Office sees problems with implementation of this proposal, it can move quickly to perfect the legislation. I recognize the concerns about ambiguities in the various proposals, but also view the current bill as sufficiently detailed to allow the details to be easily resolved in the normal course of mark-up and implementation. Moreover, I am convinced by a close reading of the original Defense proposal that the system requirements under sec. 9902 are sufficient to allow legal relief should the department violate any of the public employment and merit principles embedded in the current system.

In this regard, my only recommendations for change in the current draft are three-fold. First, I believe employee representatives should be given more than 30 days to comment on proposed changes developed under the new framework—even better would be a formal requirement for consultation before a change is proposed. Second, I believe the bill should contain a requirement to reduce the number of middle- and upper-level management layers by a specific number to be determined through a methodology developed and presented to Congress and the General Accounting Office. Third, I believe that the bill should include the Senate's proposed streamlining of the financial disclosure requirements that political and career employees must fill out each year.

THE NEED FOR REFORM

Let me start by addressing the need for reform. Contrary to many, I do not believe the problem facing government is either a lack of applicants or the impending retirement wave. As my colleagues at *Government Executive* rightly point out in a story released last Friday, the retirement crisis may turn out to be far less of a crisis than most reformers believed—indeed, the turnover rate in government may actually be too low, especially at the middle- and upper-levels. Moreover, as they also point out, there are plenty of applicants for most jobs in government. It is true, for example, that 1.7 million American applied for the 70,000 baggage and passenger screening jobs at the Transportation Security Administration last year. It is also true that 47,000 Americans applied for 900 Federal Bureau of Investigation jobs, 35,000 applied for 465 Foreign Service slots, and 20,000 applied for 270 information technology jobs at Agriculture.

However, the challenge is not getting enough applicants, but getting the right applicants. Of the 1.7 million TSA applicants, more than a third were ineligible because they could not read or write; another third could not pass the initial screening test; and another quarter were ineligible because they were not U.S. citizens. It is also useful to note that TSA had the special hiring authorities embedded in the proposed statute. One

cannot know how successful the agency would have been in hiring its workers without the on-the-spot hiring authority and expanded ranking system that Defense, NASA, OPM, and SEC seek here. TSA succeeded largely because it could move quickly to review candidates, and could make immediate offers for those who qualified. To rephrase the old saying, many were called, but very few were actually qualified.

More importantly, the measure of an effective human resource system is not in the number of applicants. Any organization, public or private, can generate lots of applicants in a weak economy. The purpose is to aim for the top of the labor pool, generate the right applicants, hire them before other competitors do, and get them on the job quickly. It is also to reward them for a job well done, not time in the system, protect them from abuse and favoritism, advance them where appropriate to higher levels of responsibility, and do so on the basis of merit and performance. In short, the purpose of a human resource system is to create and manage a healthy, motivated, highly productive workforce, not merely generate long lists of job applicants.

Unfortunately, by almost any measure available, today's system does not measure up. It makes no sense, for example, to generate long lists of applicants only to make the chosen candidates wait four to six months for a job offer. Nor does it make any sense to lock those candidates into a reward system that emphasizes longevity over performance.

As for the statistics on quit rates, I caution this Committee to be very careful about using government-wide quit rates as a measure of anything. We know that quit rates vary greatly by level in the organization. Turnover is extremely low among middle- and upper-level managers, for example, but extraordinarily high among front-line workers. The federal government has between 150,000 and 250,000 separations a year, mostly at the front-line, which averages out to a quit rate of well over 10 percent. Indeed, one of the reasons hiring freezes have such a damaging effect on government is that they hit agencies where service matters most—among toll-free telephone operators, Veterans benefit officers, Social Security claims representatives, IRS auditors, and other critically important front-line staffs.

As the following table suggests, federal employees who quit government are pulling the trigger faster with each passing year, even during the 2001 recession. The quit rates are particularly troublesome at the General Schedule (GS) 7, 9, and 11 levels, where the federal government recruits many of its future leaders. In 1997, for example, 35 percent of the GS professional and technical (P&A) employees who quit had less than five years of service. By the first quarter of the 2002 fiscal year, the number had jumped to almost half.

PERCENT OF FEDERAL EMPLOYEES WHO QUIT
WITH UNDER FIVE YEARS OF SERVICE

Fiscal Year	Technical 5	Technical 7	GS P&A 7	GS P&A 9	GS P&A 11	GS P&A 13	GS P&A 15
1997	37%	15%	57%	35%	27%	7%	34%
1998	39	15	59	38	28	15	32
1999	46	18	62	39	29	15	34
2000	54	22	67	46	36	20	31
2001	65	28	71	47	33	24	34
2002 ^a	63	30	70	47	42	27	41

^aFirst quarter only

Source: Author's analysis of data from FEDSCOPE Dynamics Cube, Office of Personnel Management

Because the federal government relies on inside talent to fill so many of its entry- and middle-level jobs, it must have a steady stream of new talent entering the pipeline at the start of career. Unfortunately, even if the federal government becomes more effective at the entry-level pitch, it must recognize that today's labor force simply does not expect to stay in any one sector or job for very long.

THE EMPIRICAL INVENTORY

Senator Daniel Patrick Moynihan once said that everyone is entitled to their own opinion, but not to their own facts. I believe his words bear great validity here today, for the facts about the breakdown in the civil service system are both unrelenting and undeniable.

Indeed, there is no level of the current human resources system that does not need immediate reform. I am particularly concerned about problems on the front lines of government where non-supervisory personnel bear so much of the burden for the inefficiency. They are the ones who have to wait months for replacements to work their way through the process, and the ones who must deal with the layer-upon-layer of needless managerial oversight. It is my hope that this legislation will give them needed relief from the micro-management that marks so much of government work today, not to mention a long overdue reallocation of resources and personnel from the middle- and upper-levels of the hierarchy to the front lines. Under the Defense proposal, for example, we could witness the movement of 320,000 jobs from military slots back to civilian, which would increase the ability of front-line staffs to fulfill the critically important mission facing this nation today.

Notwithstanding the special problems on the front lines, one can find evidence of difficulty from bottom to top. Consider the following trends culled from recent research:

At the Early-Career Level

Our best available data suggest that it has not only become more difficult to recruit talented civil servants over time, it will become more so in the future. According to a May, 2002, survey of 1,015 college students by the Center for Public Service, only

13 percent of this year's liberal arts graduates said they had given very serious consideration to working for the federal government. Business came in first at 31 percent, state and local government second at 30 percent and the nonprofit sector third at 18 percent. Young Americans increasingly believe that the most rewarding public service work is not in the federal government, but in nonprofit agencies, state and local governments, and private firms that deliver goods and services on the federal government's behalf.

According to that same survey, top students do not believe the federal government provides the challenging, interesting work they desire. Although entry-level pay and benefits must meet minimum labor-market expectations, talented Americans put the emphasis on the nature of the work.

The federal government is increasingly unable to fill jobs from the outside. According to the National Academy of Public Administration's Center for Human Resources Management, 42 percent of the federal government's entry-level jobs during the 1990s were filled by someone already on the federal payroll. Parents and teachers remain a neglected focus in efforts to improve the image of federal careers. Asked which careers offered the greatest potential for their children in a June 2000 Harris Poll, just 11 percent of parents and 25 percent of teachers said that government was a promising career.

At least part of the problem resides in the hiring process itself. No private firm could long endure the kind of delays common to the current system. The hiring process has become slower and more confusing with each passing generation of employees. Today's federal employees describe the hiring process as slow, confusing, and not always fair. Asked which word best described the process, 57 percent of federal employees interviewed for the Center for Public Service 2001 "State of the Public Service" report said confusing, not simple, and 79 percent said slow, not fast. A companion sample of private-sector workers described their organization's hiring process as simple (75 percent), fast (53 percent), and fair (90 percent)

Vacancies at the bottom of government are likely to expand rapidly over the next ten years—age works its will on the demographic contours of government every day. By 2005, more than half the federal workforce will be eligible to retire. The potential gaps can be seen all across the government, from homeland security to Social Security. With normal attrition, SSA will have to replace three out every five employees by 2010. Already, one third of calls to the SSA toll-free telephone number resulted in a busy signal or a hang-up as callers exited in exasperation, waiting times at the agency's field offices are growing, and the quality of claims decisions appears to be declining as workload rises, thereby putting greater pressure on an already-overburdened appeals process.

Hiring freezes and attrition-based downsizing have left an indelible mark on the age structure of the federal workforce. The average federal employee is 45 years old today, 32 percent will be eligible for retirement by 2004, and another 21 percent will be eligible for early retirement. Regardless of whether they will actually retire, preliminary

data suggest the presence of a growing gap between the average age of the federal government's entry-level workforce and its baby-boom middle- and upper-levels. The resulting "bathtub" or "valley" means that there are fewer potential leaders for future middle- and senior-level positions.

The hiring process is much faster among private contractors and in the military, which is why jobs are migrating toward both. Although the overall size of the contract workforce (product and services) is down since the end of the Cold War, the number of service contract workers appears to be rising as agencies put more and more jobs up for competition. The growth is particularly noticeable in hard-to-recruit areas such as information technology, where 80 percent of federal work is now done by contractors, and in management analysis/consulting. There has also been growth in what were once considered routine paper-processing positions such as Immigration and Naturalization Service visa notification mailings.

Jobs are being contracted out for good and bad reasons. On the one hand, many agencies believe that they can get faster, better service on information technology from private contractors than through the traditional hiring process. On the other, some contracting out is clearly being driven by poorly rationalized quotas. I would urge this Committee to demand far greater accountability in the contracting process as part of this package. I cannot imagine a more unappealing hiring call that contains the caveat that new federal employees may be subject to contracting competition based on a shell-game designed to hide the true size of the federal workforce.

At the Middle-Career Level

The federal government continues to have great difficulty holding talented employees over the longer term. Only 30 percent of federal employees hired twenty years ago are still in government today, for example. It is not clear, however, that the right 30 percent stayed. Unlike the military, which uses an up-or-out system, retention is more a product of accident than intent. Only 45 percent of the federal employees and supervisors interviewed by the Merit Systems Protection Board in 2001 said their supervisors promote the most qualified person when jobs are open.

As a result, worries about career advancement remain high, as do concerns about the opportunity to accomplish something worthwhile. Nearly a third of the federal employees interviewed for the 2001 "State of the Public Service" report said they were not satisfied with their opportunities for advancement, while almost half said that their job performance was either a small factor or not a determining factor at all in whether they got a promotion. Other research suggests that exciting work, career growth, fair pay, pride in organization, and so forth are also key to retention of talented employees, all of which appear to be in short supply in non-Defense agencies.

Although challenging work, resources to do the job well, and so forth are key drivers of retention, competitive pay is also one of the top reasons people stay in the job. Even if the Federal Employees Pay Comparability Act were fully implemented, it is not

clear that federal pay would be competitive in hard-to-retain/hard-to-recruit positions. Successful retention depends in part on adjusting pay to occupation and individual performance, letting the labor market work its will. Unfortunately, there is ample evidence that federal pay is not performance sensitive. Pay is used less to motivate higher performance, and more to reward experience and loyalty.

At the same time, there is little access to middle-level employment from outside of government. According to a study by the Partnership for Public Service, outside candidates were unable to apply for nearly half of vacant middle-level civil service jobs in 2001. Even when they did apply, the odds were against them. In 2000, for example, only 13 percent of mid-career hires were candidates who did not already hold federal jobs.

Federal careers are built around an implied compact that reserves promotional opportunities for those already inside government. The civil service system gives its employees guaranteed increases in employment step, but not grade, based on time in job. Although this compact is not as strict as the armed services single-entry-point career, it does close off many job openings to outsiders, and punishes managers who open jobs to competition.

At the Senior-Career Level

Job satisfaction, morale, sense of purpose, and perceived access to resources are all very high among the senior executives interviewed for the Center for Public Service "State of the Public Service" report. But these senior executives also expressed significant dissatisfaction with their salaries and their organization's access to enough training and employees to do their jobs well.

Pay compression at the top of the federal government is an increasingly significant source of dissatisfaction among senior employees. Eighty percent of senior executives now receive the same salary, meaning that the paychecks of supervisors and subordinates are often indistinguishable. Pay gaps are also increasing. Using data from the Hay Group, the Congressional Budget Office reported significant gaps in 1999 between the salaries and benefits of senior executives and private employees at large, medium, and small private firms, and rough parity with most officers at large nonprofits. Senior federal executives, career and political, made roughly one-tenth as much as chief financial officers at America's largest private firms in 1999, one-sixteenth as much as chief operating officers, and one-thirty-fifth as much as chief executive officers.

Equally troublesome, the Senior Executive Service has not become the highly mobile, generalist workforce that its designers hoped to create. According to a 1992 survey, less than a quarter of SES members said they had served in an agency other than the one in which they were originally hired.

At the Presidential Appointee Level

Past appointees report a growing host of problems in the appointment process. Analyses of experiences in the Reagan, Bush (George H.W.), and Clinton administrations suggest that (1) delays in staffing new administrations are increasing, (2) confusion and embarrassment are rising, (3) all stages of the process are taking longer than necessary, (4) both branches are contributing to the problem, and (5) the process is increasingly favoring candidates with prior government experience who already live in Washington.

According to ongoing research by the Brookings Institution's Presidential Appointee Initiative, delays continue to rise at both ends of Pennsylvania Avenue. As of October 31, 2001, almost two months after the attacks on New York City and Washington, more than one out of five senior positions involved in the war on terrorism and homeland security were still vacant.

Indeed, as of December 31, 2002, and despite nearly heroic efforts at both ends of Pennsylvania Avenue, the Bush Administration had become the slowest in modern history to fill its top jobs. The average number of days from inauguration to confirmation for President Bush's first-year appointees was 181. This represents a dramatic increase from President Reagan's inaugural year average of 142 days and a slight increase over President Clinton's average of 174 days. Although the process itself demands significant streamlining, the number of appointees virtually assures that this record will be broken in the next administration. There is simply no justification for the number of appointees in the federal government, especially at a time when we all want greater accountability between the top and bottom of our agencies.

These problems have an impact on the willingness to serve. Although the desire to serve remains strong among America's civic leaders, fears of the process are a significant predictor of a declining unwillingness to actually take a position if offered. Most of 580 *Fortune 500* executives, university and college presidents, nonprofit executives, state and local government officials, think tank scholars, and top lobbyists interviewed for the Presidential Appointee Initiative viewed the current process as unfair, confusing, and embarrassing, and were more likely than those who had actually served as appointees in the past to see the process as an ordeal at both ends of Pennsylvania Avenue.

Pay compression has eroded interest in government service among potential presidential and judicial appointees, and has weakened retention. Federal district court judges barely make as much as junior associates at America's largest law firms, while the nation's corporate chief executives make 93 times as much on average as members of Congress, and presidential appointees trail in virtually every comparison. In addition, the federal government does not compete well against the private or nonprofit sectors in providing relocation benefits for presidential appointees who want to move to Washington.

THE STATE OF THE DEFENSE WORKFORCE

These problems are clearly visible in the Defense workforce, which remains one of the most highly motivated workforces in government. However, Defense employees themselves report significant problems in the human resource management of the department. If given a vote on reform, I have no doubt there would be a landslide in favor of action at all levels of the hierarchy.

Defense employees clearly feel an intense sense of mission today. When asked in the Center for Public Service's government-wide survey in the spring of 2002 whether the events of September 11 had created a greater sense of purpose, 63 percent of Defense employees said yes, compared to just 35 percent of non-Defense employees. Defense employees were also significantly more likely to describe their jobs as more difficult, more stressful, more challenging, yet more rewarding in the wake of September 11 than their non-Defense peers.

At the same time, Defense employees reported that the civil service system was not serving their department well. Consider the following findings from our Center for Public Service surveys of Defense employees in 2001, before the terrorist attacks, and in the spring of 2002:

- When asked to choose the words that best described the hiring process, 55 percent of DoD employees said confusing, not simple, another 75 percent said slow, not fast, and 18 percent actually said unfair, not fair.
- When asked how good a job their organization did in attracting top candidates *at their level in the organization*, 31 percent of DoD employees said not too good or not good at all, 47 percent said somewhat good, and only 19 percent said very good.
- When asked how good a job their organization did in retaining talented employees *at their level in the organization*, 35 percent said not too good or not good at all, 42 percent said somewhat good, and only 23 percent said very good.
- And when asked how good a job their organization did in disciplining poor performers *at their level in the organization*, 33 percent said not good at all, 35 percent said not good at all, 17 percent said somewhat good, and only 11 percent said very good.

I emphasized the phrase "at their level in the organization" because respondents were asked to describe what life is like at the bottom, middle, and top. The numbers could not be much worse, particularly when compared to the answers of private and nonprofit employees also interviewed by the Center for Public Service over the past two

years. For whatever reason, the federal government in general, and DoD in specific, appears to believe that there is some advantage in confusing potential employees, making them wait for job offers, and providing few consequences for poor performance.

Let me hasten to add that I do not believe that DoD employees are performing poorly. Indeed, when asked to estimate the percentage of people they work with who were not performing their jobs well, DoD employees put the number at 22 percent on average, which compares well with the estimates from private and nonprofit employees. But when asked what explains the poor performance they saw, 33 percent of DoD employees said their organization does not ask enough of the poor performers, 29 percent said the poor performers were not qualified for their jobs, and 21 percent said the poor performers did not have the training to do the job well.

Once again, I remind the Committee that these numbers are self-ratings of co-workers at each respondent's level of the organization. These are not managers talking about front-line employees, or senior executives talking about middle-level employees. These are the conclusions of co-workers rating co-workers.

These are not the only problems facing the Defense Department, unfortunately. Defense employees were also clearly dissatisfied with the pace of past reforms in making their jobs easier. Asked whether their organization had been reinvented over the past few years, 70 percent of DoD employees answered yes. But when asked whether the reinventing had made their jobs easier to do, only 9 percent answered "a lot easier," 35 percent said "somewhat easier," 30 percent said "somewhat more difficult," and 18 percent said "much more difficult." Asked about the layers of management between themselves and top management, 44 percent of DoD employees said there were too many in 2002, just 2 percent said too few, and the rest, 54 percent said the right number. It should be obvious which employees were the most likely to say there were too many layers: the ones at or near the bottom.

Some of these numbers changed in the wake of September 11. The number of DoD employees who said there were too many layers actually went up between 2001 and 2002, largely, I think, because the layers were more obviously an impediment to doing their jobs. So did the number of DoD employees who complained that their organization did not provide enough access to the training needed to do its job well. In 2001, 34 percent of DoD employees said their organization always had access to the training; by 2002, the number had fallen to 26 percent. I suspect that access to training actually held steady during the period, but the perceived need for training increased with the job difficulty, stress, and challenge highlighted above. It is one thing to lack access to training during peacetime, even the kind of "boiling peace" of the late 1990s, and quite another to lack training during a new war on terrorism.

Let me add that the most serious shortage at DoD does not appear to be training. Rather, it is staffing. Asked about the issue in the spring of 2002, 45 percent of DoD employees said their organizations only sometimes or rarely had enough employees to do its job well, a stunning assessment. At least among civilian employees, the post-Cold

War downsizing has gone much too far, making jobs tougher, and high-performance more uncertain.

None of these frustrations appear to have affected job satisfaction, however: 92 percent of DoD employees said they were very or somewhat satisfied with their salary in 2002; 98 percent were very or somewhat satisfied with their job security; 96 percent were very or somewhat satisfied with their benefits; and, not surprisingly, 92 percent were very or somewhat satisfied with their jobs overall.

Where the frustrations do appear to have an impact is on morale. The number of DoD employees who said morale was either somewhat low or very low was essentially unchanged between 2001 and 2002, rising from 37 percent to 38 percent. At the same time, the number who were satisfied with their opportunity to accomplish something worthwhile actually fell from 49 percent very satisfied to 40 percent. Again, this appears to be the result of increased demand in the post-September 11 period, coupled with the lack of adequate staffing.

One last finding deserves note as the Committee moves ahead, for it goes to the heart of whether DoD can be trusted with the authorities envisioned in the proposed reform. Simply put, DoD employees have much greater confidence in their department to do the right thing than non-Defense employees. Consider the following indicators from the 2002 survey:

- 74 percent of DoD employees said their organization could be trusted to do the right thing just about always or most of the time, compared to 68 percent of non-Defense employees.
- 56 percent of DoD employees said they felt very proud to tell friends and neighbors where they work, compared to 46 percent of non-Defense employees.
- 44 percent of DoD employees said their organization did a very good job running its programs, compared to 33 percent of non-Defense employees.

This does not mean, however, that these employees would feel comfortable giving the department a complete blank check on workforce decisions. Nor is that what the Defense proposal envisions. Employees would still have protections from prohibited personnel practices. What it does suggest is that DoD employees have at least some confidence that the department can be trusted to try, assuming, of course, that Congress plays its proper oversight role.

CONCLUSION

I believe that now is the time for the kind of comprehensive reform envisioned in the Chairman's proposal. There are risks in doing so, of course. But the risks of not acting now are far more consequential. We have now had twenty-five years to tinker, tweak, refine, adjust, and retarget the reforms embedded in the 1978 Civil Service Reform Act. At one point, many of us believed that enough authorities already existed to solve the problems I have highlighted above—indeed, one of those people is now serving as the Administrator of the National Aeronautics and Space Administration, who has asked for statutory help.

But at least some of us now believe that the 1978 act and Title 5 of the U.S. Code cannot work without comprehensive reform. Government is no longer in a buyer's labor market, nor is it the preferred destination it once was. If ever there was a time when it made sense to wait months to fill vacancies, if ever there was a time when it made sense to reward longevity over performance, and if ever there was a time to permit needless layers of management, that time is now passed. I urge this Committee to grant these agencies the freedom to succeed. The empirical case for action could not be clearer.