

Statement of
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The Key to Homeland Security: The New Human Resources System

Senate Subcommittee on Oversight of Government Management, the Federal
Workforce and the District of Columbia
and the
House Subcommittee on Civil Service and Agency Organization

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Good morning Chairman Voinovich, Chairman Davis, and distinguished members of the Subcommittees. I am pleased to appear at this joint hearing of the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia and the Subcommittee on Civil Service and Agency Organization. The Department of Homeland Security appreciates the support we have received from both Committees as we have worked with Director James, our employees and their representatives to develop our proposals for a new human resource management system. I want to acknowledge the significant leadership of Director James, her counsel and advice has been invaluable in helping us arrive at the proposals you have in front of you.

As the Congress recognized with the passage of the Homeland Security Act, DHS has been given a critical responsibility. Our mission is to protect the country from terrorists and keep terrorists' weapons from entering the country. We can't afford to fail. We must recognize the responsibility entrusted to us and keep the harsh realities of the post-September 11 environment in the forefront of our minds as we go about our daily work. We need the ability to act swiftly and decisively in response to critical homeland security threats and other mission needs. To achieve this it is essential that we continue to attract and retain highly talented and motivated employees who are committed to excellence -- the most dedicated and skilled people our country has to offer. The current system is too cumbersome to achieve this.

The existing system was designed for a different time. The world has changed, jobs have changed, missions have changed...and our HR systems need to change as well to support this new environment. The current system, while it has many positive features, is insufficient to meet our needs. That is why the

Congress granted DHS the ability to meet the nation's changing security needs in the Homeland Security Act.

The Department has an historic opportunity to design a system that meets our critical mission requirements and is responsive to DHS employees. We understood Congress' desire to allow employees to participate in a meaningful way in the creation of a new system. With Director James' support and leadership, we chose to use this as a point of departure for an unprecedented collaborative effort to create the new system. Over 80 DHS employees, supervisors, union representatives and OPM staff were appointed to a Design Team. During the spring, that team conducted 64 nationwide town hall and focus group meetings to gain input from employees in all major DHS components. They also contacted over 65 public and private sector organizations and human resource experts as part of their research. The Secretary appointed a Senior Review Committee to guide the work of the Design Team and to review all the options developed by the Team. The Committee included both DHS and OPM leaders and the three Union Presidents from the largest DHS unions.

In developing these proposals for a new human resource management system, the Secretary and the Director accepted the guiding principles developed by the Senior Review Committee and the Design Team. These principles state that the Department of Homeland Security must ensure, first and foremost, that such systems are mission-centered. Such systems must be performance-focused, contemporary, and excellent. They must generate respect and trust; they must be based on the principles of merit and fairness embodied in the statutory merit system principles; and they must comply with all other applicable provisions of law.

We believe the proposal which we issued last week achieves those objectives. We have worked hard to ensure that our employees and their representatives, the general public, and other interested parties know that we are seeking input during the thirty day public comment period.

We are proposing a system that has a stronger correlation between performance and pay and greater consideration of local market conditions. Our proposal contains three major changes to the current General Schedule pay structure: first, we have proposed open pay ranges eliminating the "step increases" in the current system which are tied to longevity; second, we are proposing that pay would be adjusted by job type in each market not across all job types in each market; and third, we are proposing to create performance pay pools where all employees who meet performance expectations will receive performance based increases.

The proposals for performance management are designed to foster high levels of performance and to ensure that good performance is recognized, rewarded, and reinforced. The system will be designed to make meaningful distinctions in

performance and to hold employees accountable at all levels. We are proposing to phase in the performance management system before making any adjustments to pay based on that system. We are fully cognizant that this is one of the biggest challenges that lies ahead and that in the detailed work that must be done before we can implement the new system.

We have proposed changes which clarify and streamline the adverse action and appeals process while ensuring fairness and due process. We pledged at the beginning of this process to preserve fundamental merit principles, to prevent prohibited personnel practices, and to honor and promote veterans preference. These are core values of public service which we will not abandon.

We don't propose significant changes in the definition of adverse actions but have proposed to shorten the notice and reply period from 30 days to 15 days. In addition, our proposal creates one process for dealing with both performance and conduct issues in place of the separate processes under current title 5.

We do propose to create a category of offenses that have direct and substantial impact on the ability of the Department to protect homeland security. These offenses would be so egregious that supervisors have no choice but to recommend removal. We would not propose to use this authority lightly or frequently and employees will know in advance the list of offenses that would warrant mandatory removal. Only the Secretary could identify these offenses, and the Secretary or his designee could reduce the penalty. Employees alleged to have committed these offenses will have the right to advance notice of the charged offense, an opportunity to respond, a written decision, and a further appeal to an independent DHS panel.

The vast majority of cases, which do not involve mandatory removal offenses, will still be brought before the MSPB, but with certain substantive and procedural modifications designed to bring greater efficiency in decisionmaking. These modifications to MSPB procedures will further DHS mission without impairing fair treatment and due process protections.

Finally, our proposed labor relations construct meets our operational needs while providing for collective bargaining and encouraging consultation with employee representatives. One of the most significant changes which we have proposed is the scope of bargaining over management rights. In the face of a committed and unpredictable enemy, the Department must have the authority to move employees quickly when circumstances demand; it must be able to develop and rapidly deploy new technology to confront threats to national security; and it must be able to act without delay to properly secure the Nation's borders and ports of entry. We propose that the Department not be required to bargain over the exercise of these rights. Our proposal provides for consultation with employee representatives both before and after implementation when circumstances permit.

We have proposed to retain the same bargaining obligations as we have today concerning the exercise of the remaining management rights.

We also propose to create a Homeland Security Labor Relations Board. We determined that the Department should establish a separate Labor Relations Board focused on the DHS mission. We put a high premium on the Board members' understanding of and appreciation for the unique challenges DHS faces in carrying out its homeland security mission. We also gave great weight to the benefits of a unified, expeditious process to resolve bargaining disputes. To ensure independence and impartiality, which both we and the unions value, the Board will not report to the Secretary; the three external members will be appointed for fixed terms and subject to removal only for inefficiency, neglect of duty, or malfeasance.

We recognize that these are significant changes. They are necessary for the Department to carry out its mission and fulfill the requirements of the Homeland Security Act to create a 21st century system that is flexible and contemporary while protecting fundamental employee rights. We have developed these proposals with extensive input from our employees and their representatives. And we continue to encourage a dialogue as we proceed through the regulatory process.

We are asking all employees, as well as the unions which represent our workforce and the general public to comment on these regulations. We look forward to hearing from members of your two committees as well as other members of Congress during this period. Following that comment period, we will need time to consider what we have heard. We have a statutory obligation to meet and confer for at least 30 days to attempt to reach agreement with employee representatives; during this period the Secretary may engage mediators to help us resolve any of the disagreements with employee representatives that we can. Then and only then can these proposals be implemented.

In the interim, our employees continue to do outstanding work on behalf of the American people. We are fast approaching the anniversary of moving twenty-two separate agencies into the Department of Homeland Security. We are proud of all we have accomplished in one year. And, we are especially proud of the employees who have made it possible.

That concludes my remarks. I welcome any questions.