



**ORAL STATEMENT OF**

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**OF**

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**FOR THE RECORD**

**BEFORE**

**THE DEFENSE BUSINESS BOARD**

**REGARDING**

**THE NATIONAL SECURITY PERSONNEL SYSTEM**

**SUBMITTED ON**

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Good afternoon. On behalf of the National Federation of Federal Employees, and the 100,000 federal employees we represent, including 45,000 at DoD, I thank the Defense Business Board Task Group for the opportunity to address you personally and publicly in your review of NSPS.

You have asked us to offer our view on whether the underlying design principles and methods for implementing NSPS reflect the personnel system's objectives, whether these objectives have been met, and whether NSPS is fair, transparent, and effective. While NSPS professes to serve the design principles, such as flexibility, adherence to merit principles, fairness, credibility, transparency, and to link performance to DoD's strategic plan, I can definitively say that these aspirations have not been met by the NSPS we see today. Before I get into these details, I want to share with you some of my personal experience and to discuss NSPS in a broader context.

Before coming to Washington to head our union, I was employed as a machinist working on prototype weapons systems at the Watervliet Arsenal in upstate New York. I know what it is like to work at a major Defense installation. I was on the shop floor manufacturing military ordnance for the Department of the Army for 14 years. I know the realities of the work culture at DoD. I know how managers and employees interact out in the field. I know this because I've been there and I've lived it. I can tell you with great certainty that this highly controversial personnel system cannot possibly be a success. Rather, I believe that, if fully implemented, NSPS could destroy our nation's capability to maintain our military readiness, a possibility that would work firmly against the strategic interests of our nation.

The impact of NSPS goes well beyond the unequivocally negative effect it will have on DoD workers. We are currently engaged in two major military conflicts abroad, which are putting great demands on our civilian Defense workforce. Concurrently, the Department is facing a personnel crisis created by the surge in retirement being experienced throughout the civil service. These two factors are already putting significant strain on our Defense agencies to maintain our military readiness. By moving the entire DoD workforce under NSPS, an unproven system which the Department is currently incapable of implementing properly, we add a third component that will drag down morale, eliminate the efficiencies that do exist, and ultimately will undercut the Department's ability to perform. Our women and men in uniform are counting on us to provide them with the tools they need to perform their duty and protect our nation. NSPS puts our capability to deliver on that in jeopardy.

This panel should not underestimate the extreme distrust that Defense workers have of NSPS. This personnel system is the legacy of former Defense Secretary Donald Rumsfeld, who grabbed authority to construct a new personnel system at DoD in the wake of 9/11. Once given the authority, he pushed forward a plan that aimed to eliminate Defense workers' rights to bargain collectively and appeal adverse actions. It also aimed to shift workers out of the more structured General Schedule and into a highly subjective pay-banding system, which could be used to stifle Defense workers' pay. In devising this system, DoD completely ignored the input from rank-and-file workers and their unions. Even after 58,000 comments from concerned Defense employees and well over a month of meet-and-confer with unions, the Department's personnel plan remained virtually unchanged from their original proposal. Adopting this approach to labor-management relations made it abundantly clear that NSPS would be used to eliminate DoD employees' voice in the workplace and to silence Defense unions.

Although NSPS has been scaled back by Congress since then, these changes have done nothing to shake the justifiably high level of distrust that Defense employees have for NSPS. For the better half of a decade, Department workers have understood that NSPS was a threat and that the personnel plan could not be trusted. This well-engrained negative opinion of NSPS is not likely to be swayed by minor policy repackaging or a new approach to dealing with the unions. Defense workers have already made up their minds on NSPS; they want it gone once and for all. I agree with this assessment. I believe that NSPS is unsalvageable, and the best possible course of action is full repeal.

Operating under the status quo, with three different pay systems, is not a viable long-term structure for DoD. Given the major problems with NSPS, we consider moving the entire Defense workforce under NSPS to be an unacceptable solution. That leaves converting NSPS workers back to the GS system as the final, and most attractive option for DoD going forward.

Just because we favor the GS system to NSPS does not mean that we are only interested in maintaining the status quo. Far from it. We are well aware that the GS system has some significant flaws and we are willing to work with the Administration and Congress to address these shortcomings. In fact, we are currently engaged in discussions with OPM Director John Berry and relevant Congressional committees on how to make much-needed improvements to the current system. We are ready to roll up our sleeves and get to work solving the problems that the federal government faces. By working together, I believe we will see significant improvements to the GS system in the coming years.

I believe that further implementation of NSPS could actually be a major obstacle to needed civil service reform. An attempt to force NSPS on rank-and-file Defense workers could sour the relationships between various stakeholders and could undermine the possibility of meaningful, worthwhile negotiations and reform. Although change is called for, we should not mistake that to mean that any change is good. Change for the sake of change is a bad idea. We need to make sure that when a significant overhaul to the system is made, it is the *right* change, and NSPS is *not* the right change.

Being the largest department in the federal government, DoD is not ready for change to a system like NSPS. DoD does not have the infrastructure in place to make a seamless transition to a sophisticated appraisal system that might facilitate a fair and transparent merit pay plan. DoD is several years away from being capable of implementing a more merit-based pay system properly.

It is important to note that making DoD the proving ground for major personnel reform was never a strategic decision made by Congress or the Administration. It was not recommended by employee groups or good government think tanks. DoD became a federal personnel system crash test dummy purely out of political happenstance. NSPS was originally part of a greater government-wide reform effort that included similar reorganizations like MaxHR at DHS and the Working for America Act, which would have made similar personnel reforms government-wide. While these other plans have long been abandoned, NSPS remains. It is time to close the book on NSPS as well.

Now I want to address some of the specific issues we have with NSPS.

If the goal is to link performance with pay, NSPS has failed. A pay for performance system should compensate employees based on how they are rated, primarily from their immediate supervisors. However, under NSPS the ratings of supervisors can, and often are, overturned. The final decision on ratings and payouts is made by the “pay pool panel,” which includes managers that may know very little about an employee’s performance. An employee’s pay becomes more a function of how much influence a manager has with the pay pool, and not the employee’s actual performance.

Any pay system that rewards one employee’s performance at the expense of another’s because of funding limits, will not succeed. Under NSPS, if a manager wants to reward an employee with the maximum number of shares, and therefore the highest possible bonus, the limited pay pool compels the manager to rate other employees lower in order to do so. This is fundamentally unfair. This is robbing Peter to pay Paul, and allowing it will breed discontent throughout the Department.

If the goal is to link performance with pay, there must be an objective measurable means of evaluating employees. While the law creating NSPS waives Chapter 43 of Title 5, NSPS incorporates certain themes found in this chapter, such as periodic appraisals and communication of performance standards and expectations. Plainly absent from NSPS criteria, yet central to Chapter 43, is the requirement that performance standards allow for accurate evaluation of job performance based on objective job-related criteria.

Regulations without objective, measureable criteria authorize individual managers to use unfettered discretion to subjectively rate an employee’s performance.

For example, professionalism and civility, while valued concepts, are mandated, yet undefined by NSPS, and inevitably vary from occupation to occupation, geographical region to geographical region, and supervisor to supervisor. Another example of a highly subjective job-related criterion is “respect for others,” which can easily be used to hurt an employees’ rating and pay-out even if they are performing very well. These unarticulated standards do nothing to advance the design principles of NSPS and cause great frustration among Defense workers.

I want to expand on the point that NSPS cannot co-exist with the GS system. The two systems inherently conflict, and there is little that DoD can say which will change this reality. NSPS allows for managers to reassign employees to positions with higher earning potential *without* the use of the competitive process. The GS system however, preserves competition, by adhering to the merit principles that ensure fairness, credibility, and transparency.

Case in point, at our Letterkenny Army Depot Local, management officials have reassigned bargaining unit employees into NSPS positions with higher earning potential, but without open and fair competition, simply because NSPS allows it. This reassignment violates Title 5 and is a clear violation of Congressional intent. Congress compelled DoD to retain the merit principles when implementing the new personnel system. NSPS rules authorize management to take this action, but doing so was demoralizing to other qualified employees who lost the opportunity to advance their careers. When DoD hand selects employees for positions without open and fair

competition, freezing out other qualified employees and applicants, even veterans, from being considered for vacant positions, the system fails. This issue is a sad portrait of what we can expect to see under NSPS.

NSPS also does not prevent DoD from reassigning union leaders or other bargaining unit employees to NSPS positions, a means by which the Department will be able to legally bust the union under NSPS rules. This is shameful and unacceptable.

Before I finish, I would be remiss if I did not touch on the enormous cost of NSPS, which has renewed relevance with the slumping economy. Remember that the true cost of NSPS has never been disclosed publicly. Since 2003, DoD has gone to great lengths to conceal the true cost of NSPS. A GAO study from late 2005 concluded that poor accounting would prevent the Department from ever giving a true account of personnel system's price tag. One can only estimate how much the American people have been forced to spend on this ill-conceived reform. However, I believe any realistic estimate would run well into the billions of dollars, and full implementation of NSPS will run billions of dollars more. We need to stop throwing good money after bad at this failed program, especially when this country's deficit is souring.

Clearly, NSPS will not work in its current form, so the question becomes whether to scrap NSPS altogether or to find a way to adjust it to make it work. For all the aforementioned reasons, I believe we should cut our losses on this NSPS debacle once and for all, and move forward.

Thank you for the opportunity to provide testimony.