

**American Federation of Government Employees, AFL-CIO
80 F Street, NW
Washington, DC 20001
202-639-6413**

STATEMENT BY

JOHN GAGE, NATIONAL PRESIDENT

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

BEFORE

**THE SUBCOMMITTEE ON THE FEDERAL WORKFORCE,
POSTAL SERVICE, AND THE DISTRICT OF COLUMBIA**

HOUSE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

ON

PAY FOR PERFORMANCE SYSTEMS

FEBRUARY 12, 2008

Mr. Chairman and Subcommittee Members,

My name is John Gage. I am the National President of the American Federation of Government Employees, AFL-CIO, which represents 600,000 federal workers in 65 agencies across the nation and around the world, including employees in the Department of Defense (DoD) and the Transportation Security Administration (TSA).

I appreciate the opportunity to testify today on the subject of "pay for performance." While to date only a few AFGE members participating in small demonstration projects have been taken out of the General Schedule (GS) and placed under a so-called pay for performance system, the Department of Defense has the authority to apply its National Security Personnel System (NSPS) pay program to the employees in our bargaining units, and may do so in the near future. In addition, Transportation Security Officers have never been in the General Schedule, but are covered by the agency's intentionally vague and indecipherable Performance Accountability and Standards System (PASS).

Department of Defense: National Security Personnel System

We are grateful, Mr. Chairman, for your support and assistance in the FY 2008 Defense Authorization Act deliberations, that placed some limitations on DoD's ability to impose its new system on employees. First, it is a tremendous relief to wage grade (blue collar) workers laboring long hours at military installations across our nation to support our warfighters, that they will no longer be subject to NSPS.

The second limitation that you and others succeeded in achieving provides that management bargain in good faith with unions over negotiable subjects before the new pay system is applied to GS employees currently serving in our bargaining units. Third, the new law ensures that any GS employee at DoD placed under NSPS will be guaranteed 60% of the nationwide pay adjustment, and 100% of the locality adjustment granted every year to GS workers, provided that employee is rated above "unacceptable."

The protections noted above are important, but only partial safeguards from the risks of the NSPS pay system. AFGE will vigorously negotiate collective bargaining agreements that try to ensure that before the system is applied to bargaining unit members, every effort will be made to provide the fairness, transparency, and accountability that is clearly lacking in the current NSPS system.

The press reports of the recent January 2008 "payout" for employees under NSPS have been misleading. There are many questions about the methodology used in implementation, which I will discuss later in this statement. We strongly urge the subcommittee to request data from DoD to explain how the system has

been applied, because the data that DoD has provided to date are insufficient for an effective evaluation of the system. I have attached an appendix to this statement listing the data needed to conduct such an evaluation.

The Bush Administration likes to claim, falsely, that NSPS is designed to adhere to the merit system principle of “equal pay for substantially equal work”. Employees who have had the misfortune of working under “pay for performance” systems know otherwise. When surveyed, federal workers express skepticism about their chances to excel in the workforce because their opportunities and evaluations depend so much upon their supervisor’s arbitrary set of expectations and preferences. Stanford University Business School Professor, Jeffrey Pfeffer, understands employee apprehension about individualized pay systems, noting that “supervisors in charge of judging employees have a natural tendency to favor people like themselves.” These proclivities tend to result in adverse effects on women, minorities, and sometimes older workers, who are underrepresented in the ranks of management. Indeed, women and minorities have been most likely to report dissatisfaction with pay for performance demonstration projects, arguing that pay raise decisions reflected bias rather than objective assessments of a worker’s performance.

This kind of subjectivity and bias pervades the NSPS pay system. Unlike the NSPS, the GS system and the pay adjustment process contained in the Federal Employees Pay Comparability Act (FEPCA) were established upon the pay principles of neutrality and “market sensitivity” or comparability with the private sector. Salaries are set on the basis of job responsibilities, and annual adjustments reflect both the performance and experience of the job holder, and market data from the Employment Cost Index (ECI) and locality surveys. In contrast, NSPS is supposed to set base pay and future salary increases on individual performance, judged by a hierarchy of supervisors.

AFGE strongly believes that NSPS has not followed this model. Reports from senior managers in DoD administering the NSPS pay plan for those not in bargaining units have described its implementation as even more problematic than its model. We are told that different pay pools have different rules for distribution, and that supervisors have been ordered to reveal to their subordinates only their “narrative” ratings, not their numerical ratings (the latter can be changed subsequently, and determine performance pay eligibility). As a result, the direct connection between performance and the employee’s compensation is lost. Without the direct feedback, the premise of pay-for-performance is undermined. Surely it violates the principle of transparency if an employee cannot see the supervisor’s rating.

Because it is DoD’s intention that NSPS pay not exceed the cost of the GS system, the “pay for performance” system is required to fit performance ratings

into a normal distribution, or bell curve. In practice this means that numerical ratings can be changed not because of failure to reach performance objectives, but to align with pre-set ceilings on the number of 5's, 4's, 3's, 2's, and 1's that are necessary to assure adequate funding for pay pool distributions.

Far too many managers have told us that they had carefully rated their subordinates as objectively as possible, only to be told when they went to the pay pool meeting with other supervisors that their ratings must be lowered in order to get to the bell curve. But it gets much more complicated than that.

Employees in the same pool who were rated "3", for example, might not get the same number of shares.* That number varies on the basis of:

1. the component/activity/workplace
2. the pay band (individual workplaces gave out different numbers of shares to professionals vs. technicians vs. supervisors/managers.)
3. the location of the workplace
4. the pay pool manager's opinion of how an employee rated relative to other "3s" submitted by other supervisors
5. how crucial the employee's job is judged to be relative to the Pentagon's strategic military objectives.

Further, the money put into shares varied enormously. In some places, a share was worth 1% of salary, in others it was worth 1.5% and in others it was worth 2%. Again, these could vary among and within components and all the way down to individual workplaces and individual employees. In some workplaces, an employee who got a three could get more than someone elsewhere who got a 4. Also, as mentioned above, some pay pools made distinctions among 3s, 4s, and 5s giving individuals who got the same ratings different numbers of shares. In other words, there is no consistency whatsoever.

Just to make matters even more complex, the pay pool managers have flexibility in deciding how much of a share should be put into an employee's salary increase versus cash bonus. Obviously, the more compensation placed in bonuses as opposed to salary increases has profound implications for the employee's standard of living not only in subsequent years while he or she is still working, but also into retirement. Once he or she retires, both the defined benefit portion of the pension (based on a formula using the high-3 years of salary) as well as the agency's contribution to the Thrift Savings Plan (TSP) (based on a percentage of salary) will be reduced commensurate with reduction or stagnation of salaries.

* The little data DoD has released indicates that of the employees rated as a "3", about 30% received one share, and 70% received two shares.

The “forced distribution” model is evident in the way DoD established “performance” pay to its non-union NSPS employees in 2008. Fifty-seven percent were rated “3” or average; 36 percent got a “4” rating, and just five percent received the highest rating of “5.” Two percent were rated either “1” or “2” and thus received little or no raise. And despite triumphant headlines touting “average” raises of 7.6%, the ugly fact is that not all those rated in the middle level “3” got the same percentage raise. In fact, among the 62,700 “valued” employees, DoD decided that 5,425 were of so little value that they got raises smaller than their GS counterparts, or less than 3.5%.

Senior DoD managers have also explained how the work of employees in the lower grades, which cannot be linked directly to the strategic military objectives of the Pentagon, is also systematically undervalued in the NSPS pay system. For those employees, it is not enough to perform extra work or exceed their written objectives. The accomplishments of subordinates are written into the accomplishments of their superiors, even if these higher-graded people were entirely uninvolved in the work. Sometimes lower-level employees are even assigned to write up their bosses’ accomplishments, and told to describe their own work as having been done by others.

In addition, there appears to be a profound bias in favor of employees who work higher up the chain of command or closer to the Pentagon as compared to those who do not. Apparently, the assumption is that no matter how significant one’s assignment might be to national security, the simple fact of working further from the Pentagon is evidence that that position is not as valuable. There may also be hierarchies of this bias; we are told that while it is best to work in the Pentagon, second best is a regional command, and yet further down the ladder are those working at military installations. (I would think Members of Congress would be particularly interested in what is so obviously an inside-the-beltway bias.)

By contrast, the General Schedule is transparent, easy for employees to understand, and easy for agencies to administer. The complexity of the NSPS can be used to hide the suppression of future wage adjustments for the rank and file. Lower pay increases and the replacement of salary increases with cash bonuses will necessarily lower the standard of living for many good performers during their work years and into retirement.

In addition to concerns about loss of salary, and corresponding reductions in pensions and thrift savings plans, AFGE is also very concerned about the elimination of merit promotion. Under the General Schedule, an employee’s ability to get promoted is clear from the position description. If the job is based on a career ladder (say, it starts as a GS-5 but goes to a GS-7 then a GS-9), employees know what is expected of them and they can look forward to those

promotions (and the corresponding salary increases) throughout their careers. Under NSPS, promotions are likely to be far rarer. Employees might be given additional duties by their supervisor in order to advance inside the pay band, but there will be no clear pathway to that advancement, nor is there a requirement that a job at the higher level be open to competition. Bias and favoritism are inevitable.

Outside the context of union representation, DoD employees are reluctant to utilize the formal process set up to grieve their numerical performance rating, as it is widely viewed as career suicide to do so. The NSPS system, so far, has violated even its own alleged principles of rewarding individual performance. If it is allowed to spread, the damage to the merit system will be incalculable.

Mr. Chairman and Subcommittee Members, what AFGE has been told by senior managers at DoD is that there are many problems with the NSPS pay system and we have no reason to doubt them. They are not obligated to discuss any of these matters with us at this time. It is crucial in any evaluation of a system with this much flexibility, that the results be exposed to a great deal of sunshine. With your advocacy and the compliance of the Department, the fairness, transparency and accountability promised by NSPS can be better evaluated using the numbers. We urge the committee to acquire the data listed in the appendix annually, and to share it with the representatives of the employees in the department who may be placed under NSPS in the future. It is also important that this information be publicly available on the website. If the system is any good, it will withstand the scrutiny. If it is not, AFGE and other unions will negotiate for its improvement, and continue to advocate for legislative correction.

Transportation Security Officers

Despite the public's call for a federalized, well-trained and well-compensated screener workforce following the tragedy of 9-11, TSOs continue to be drastically underpaid for the extraordinarily difficult and important job they perform every day. By TSA's own admission, the average annual pay for TSOs is \$30,000, including the pay of TSOs who have been on the job for over six years. This pay is approximately equal to that of a GS-5 under the General Schedule.

Other law enforcement officers at the Department of Homeland Security (DHS) who perform duties similar to TSOs, such as Immigration and Customs Enforcement (ICE) Detention and Removal Officers, are classified between a GS-7 and GS-11. In addition to low base salaries that have not increased for over four years, TSOs are subject to the unaccountable and highly subjective performance-based pay system known as PASS. While it is virtually impossible for us to obtain data or even basic information about how the system is supposed to work, to make matters worse TSA continually changes the system. (As with

NSPS, AFGE urges the Congress to require the agency to provide data which would allow for an evaluation of the system.) While understandably confused about the details, employees tell us that PASS is based on favoritism, not merit. Transparency is completely lacking. Last December, TSA disclosed that TSOs would receive a smaller pay raise in 2008 than in 2007 even if they received the same performance rating as the previous year.

TSOs perform duties that OPM categorizes as Compliance Inspection and Support, and are included in a group of other occupations ranging from ICE to Bureau of Alcohol, Tobacco, Firearms, and Explosives (BATF) Investigative Assistants. However starting salaries for TSOs can range from \$10,000 - \$20,000 below BATF and ICE Investigative Assistants. In addition to inexplicably low starting salaries, the PASS system makes it unlikely that TSOs will ever achieve pay parity with other federal workers in similar job categories because of the arbitrariness of the system. For instance, although TSOs can earn up to 6% additional points on their PASS evaluation performance rating by performing "collateral" duties such as clerking, equipment maintenance and records management, assignment of those duties is discretionary to TSA management and is usually awarded to TSOs based on favoritism and denied in retaliation. TSOs cannot appeal even the most unfair evaluation under the PASS system, contrary to the basic requirements for effective pay for performance systems as set forth by the MSPB.

Employees at TSA express a strong desire to move to the General Schedule so that in return for doing their jobs, they can be assured of at least a stable standard of living. AFGE would support an employee recognition system to supplement the General Schedule, but the employees' basic compensation and standard of living should not be subject to the whims of individual managers – too many of whom are incompetent.

Mr. Chairman, TSA constantly ranks at the bottom of any survey of employee morale in the federal government. We all know it – from the tragedy suffered on 9-11 – this workforce is too important to be treated so callously. The flexibility given to TSA under the Air Transportation Security Act has been abused to the point of absurdity. It's time to provide a rational pay system for these workers before the attrition rate climbs any higher.

AFGE urges the subcommittee to end the grossly unfair and inadequate PASS system, and instead place TSOs under the market-based General Schedule that applies to other federal workers, including their colleagues throughout DHS.

That concludes my statement. I will be happy to try to address any questions.

APPENDIX

In order to evaluate the NSPS pay system in terms of whether it has adhered to its legal obligation to the merit system principles, specifically the requirement of "equal pay for substantially equal work," it is necessary to have access to data that describes the distribution of pay adjustments. Data similar to what are requested here are widely available for all other federal pay systems, including the General Schedule and the Federal Wage System. As those pay systems cover close to 1.8 million federal employees, publication of similar data sets for a pay system covering just 110,000 federal employees is a modest request.

Specifically to evaluate the January 2008 payout for NSPS, the following data are needed:

1. A list of each separate pay pool, identified by service, component, activity, and geographic location.
2. For each pay pool, the following information:
 - Number of employees to be paid from pay pool.
 - Funding of pay pool as a percentage of aggregate salaries subject to that pay pool.
 - Age distribution of employees subject to each pay pool.
 - Gender distribution of employees subject to each pay pool.
 - Race distribution of employees subject to each pay pool.
 - Salary range of employees subject to each pay pool.
 - Occupations included in each band subject to the pay pool.
 - Number of 1s, 2s, 3s, 4s, and 5s awarded in each pay pool.
 - Value of shares awarded in each pay pool.
 - Number of employees awarded a 3 who received one share, for each pay pool, by race, age, and gender.
 - Number of employees awarded a 3 who received two shares, for each pay pool, by race, age, and gender.
 - Number of employees awarded a 4 who received three shares, for each pay pool, by race, age, and gender.
 - Number of employees awarded a 4 who received four shares, for each pay pool, by race, age, and gender.
 - Number of employees awarded a 5 who received five shares, for each pay pool, by race, age, and gender.
 - Number of employees awarded a 5 who received six shares, for each pay pool, by race, age, and gender.
 - By pay pool, the percentage of money given as salary increases and the percentage given as cash bonuses.