

THE NATIONAL SECURITY PERSONNEL SYSTEM ***PROTECTING DOD CIVILIANS THROUGH THE TRANSITION***

BACKGROUND

Enactment of the fiscal year 2010 National Defense Authorization Act (P.L. 111-84) signified the end of the controversial NSPS pay-for-performance system, but it marked only the beginning of a long, tenuous process of determining how to manage the 226,000 federal employees who serve under the system. As Department of Defense (DOD) officials begin the transition out of NSPS, the Federal Managers Association (FMA), which represents the interests of managers and supervisors in 35 agencies across the federal government including DOD, remains vigilant and stands by its commitment to ensure no civil servants are negatively impacted in an unjust manner during this transition.

We at FMA believe aggressive steps must be taken to protect the interests of the DOD civilians who labored and succeeded under a system they did not ask to be a part of and who may be adversely impacted by a conversion back to their previous personnel systems. Below is a list of major concerns and recommendations we believe DOD must address to ensure these hardworking, high performing civil servants retain the compensation to which they are entitled.

CHIEF CONCERNS REGARDING TRANSITION

Of primary concern to FMA members is the potentially devastating effect subjecting employees to the policy of pay retention may have on individuals' current and future pay. The 2010 NDAA specifically states that no employee shall lose pay as a result of the transition, but this statement does not prevent DOD officials from freezing future pay of top performers due to current General Schedule (GS) rules on pay retention. Employees converting back to demonstration projects or any other applicable pay systems should also face no loss in pay and should not be subject to a cap on pay.

- Given that the average pay raise under NSPS has far exceeded the GS raises, many employees are now a GS level above where they were when they entered NSPS in terms of salary. If these employees return to the same GS grade they occupied prior to the conversion into NSPS, it is possible their salary may exceed the step 10 level, and under pay retention rules these high performers could receive only half of the annual pay raise until the GS system "catches up" with them.
- Employees who continuously displayed above average performance under NSPS would be affected greatest, which sends the message that performance is not recognized in the workforce. Capping the pay of these top performers serves only as a disincentive for outstanding employees to continue their exceptional performance working for DOD.
- Pay retention would not only affect the current pay received by these employees but could also negatively impact their high-3 average salary, which is used to calculate retirement benefits. No employee should lose current or future pay as a result of an arbitrary pay cap when converting back to their previous personnel systems.

Additionally, as most bargaining unit employees were not included in NSPS, DOD must ensure that all managers and supervisors are adequately compensated for their supervisory duties. As managers and supervisors transition back into their previous personnel systems, it is imperative DOD recognize the responsibilities they shoulder.

RECOMMENDATIONS AND POTENTIAL SOLUTIONS

Establishing a cap on employees' pay contradicts the intent of the language included in P.L. 111-84 which aims to protect employee pay. To counteract the damaging effect of the pay retention policy and provide for a smooth transition, FMA recommends the following to protect DOD civilian employees' interests:

1. FMA urges DOD to follow the principle of last in, first out: employees who were most recently transitioned into NSPS should be the first employees transitioned out. This would allow DOD officials to devote the maximum amount of attention to those employees who have spent the most amount of time in NSPS and are therefore the most difficult to convert out of the system.
2. DOD must recognize the challenges facing employees who served under demonstration projects prior to spiraling into NSPS. It is imperative DOD officials reevaluate the merits of these systems to determine if it is prudent to return employees to their demonstration projects or provide for a transition into the General Schedule.
3. Consideration should be given to moving employees whose pay exceeds their corresponding GS positions into a system similar to the General Manager (GM) personnel classification which replaced the Performance Management Recognition System when it was terminated in 1993. Under such a system, employees' rate of basic pay would not have to be set at a fixed step rate for their GS grade, allowing salary flexibility.
 - Implementing a system along these lines would ensure employees receive full annual pay raises and future performance recognition entitlements based on exceptional efforts in job performance and agency improvement.
 - Employees would remain under this system until one of the following actions occurs: employee is promoted to a grade that his/her current salary falls into; employee is downgraded for cause; or, employee leaves federal service for any reason, such as retirement.
 - Pertaining to those who would be adversely affected due to the classification issue, employees in the GM system would be considered non-exempt for pay and overtime entitlement under the Fair Labor Standards Act (FLSA).
4. Consideration should also be given to awarding promotions based on the impact of the individual on the position. This type of promotion would apply only to the individual promoted. When the position is vacated by that individual, the position reverts back to the original grade for recruitment purposes. This tool is already built into the GS system.
5. Additionally, attention must be paid to the reevaluation of job classifications. If a significant portion of employees affected by the pay cap hold relatively similar positions, the Pentagon should consider modifying their classification to more accurately align managers' and supervisors' job descriptions with the duties they perform on a routine basis. An accurate calculation of the number of employees facing a cap on pay and the positions they hold is necessary to address this issue and should be pursued before the transitions process continues.

Note: This document is subject to change and will be updated as more information on the transition is released.