

May 14, 2010

Chairman Carl Levin
Senate Armed Services Committee
228 Russell Senate Office Building
Washington, D.C. 20510

Ranking Member John McCain
Senate Armed Services Committee
228 Russell Senate Office Building
Washington, D.C. 20510

Dear Chairman Levin and Ranking Member McCain:

On behalf of managers and supervisors at the Department of Defense (DOD), I am writing to express my concerns regarding the ongoing transition from the National Security Personnel System (NSPS) to the General Schedule (GS) system. The chief concern I would like to address is the pay cap many federal employees will encounter as a result of transition policies supported by DOD officials.

As established under the Fiscal Year 2010 National Defense Authorization Act (P.L. 111-84), DOD civil servants currently enrolled in NSPS will leave the system by January 1, 2012. Most DOD employees will transfer back into the GS system, and while the law explicitly states no employee shall lose or see a decrease in pay as they transition, I am concerned that this language will allow DOD officials to freeze future pay of top performers due to current GS rules on pay retention.

Given that the average pay raise under NSPS has far exceeded GS raises, in terms of salary, many employees are now a GS level above where they were when they entered NSPS. If these employees return to the same GS grade they occupied prior to the conversion into NSPS, it is likely their salary will exceed the step 10 level. Under GS pay retention rules, these high performers would receive only half of the annual pay raise until the GS system “catches up” with them.

We are increasingly concerned with the rush of DOD officials to transition employees out of NSPS without taking a close look at the number of employees likely to be subject to pay retention rules. Based on FMA’s initial survey of its members, an average of 20 – 25 percent of NSPS employees will be facing pay retention. If this is indicative of NSPS as a whole, roughly 40,000 or more employees could be facing a decrease in future pay. Many of these dedicated employees have crunched the numbers and determined that the General Schedule will not “catch up” with them by the time they retire over the next decade. This is unacceptable.

Employees who continuously displayed above average performance under NSPS would be affected greatest, which sends the message that performance is not recognized in the federal workplace. Pay retention does 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, future or retirement pay as a result of a pay cap when converting back to the General Schedule.

A provision exists in Chapter 51 of title 5 of United States Code which would allow DOD to circumvent pay retention rules under certain circumstances. An Office of Personal Management guidance on the issue states:

The duties and responsibilities of a position may change over time. For the most part these changes result from reorganizations, new or revised organizational responsibilities or missions, and changes in technology. Sometimes, however, the unique capabilities, experience, or knowledge a particular employee brings to the job can also have an effect on the work performed and therefore on the classification of the position.

While it is the position which is classified, the relationship of the employee to the position can be recognized when the performance of the incumbent broadens the nature or scope and effect of the work being performed... Such changes affect the difficulty of work or the responsibility and authority given the employee and can be recognized in the position classification decision.

Job changes resulting from the individual impact of an employee should be recorded to distinguish the position from descriptions of other positions.

When significant changes in work occur for any of the kinds of reasons mentioned above, the classification of the position (title, series, and grade) should be reviewed and revised as needed. When a position which has been affected by the impact of an individual is vacated, it should normally revert to its original classification.

You can find more information on this stipulation at: <http://www.opm.gov/fedclass/gsintr.pdf>.

As members of the Federal Managers Association prepare to transition out of NSPS, I respectfully request that you take action to ensure high-performing DOD civil servants receive the compensation they have rightfully earned before they are forced to endure the effects of this unjust policy. If you have any questions or concerns, please contact Jessica Klement, FMA's Government Affairs Director, at (703) 683-8700. Thank you for your time and consideration of this important issue, and I look forward to hearing from you.

Sincerely,



Patricia J. Niehaus
National President

Cc: Members of the Senate Armed Services Committee