



**G A O**

Accountability \* Integrity \* Reliability

---

**United States Government Accountability Office  
Washington, DC 20548**

June 29, 2005

The Honorable Tom Davis  
Chairman  
Committee on Government Reform  
House of Representatives

The Honorable Jon C. Porter  
Chairman  
Subcommittee on the Federal Workforce  
and Agency Organization  
Committee on Government Reform  
House of Representatives

Subject: *Issues Related to Poor Performers in the Federal Workplace*

Many factors contribute to an organization's success in accomplishing its mission, but none more than the effective management and utilization of its greatest asset—its employees. A high-performing organization relies on a dynamic workforce with the requisite talents, multidisciplinary knowledge, and up-to-date skills to ensure that it is equipped to accomplish its mission and achieve its goals. An effective performance management system can help an organization manage the day-to-day activities that allow employees to perform at their highest levels by creating a clear linkage—"line of sight"—between individual performance and organizational success.

In the current environment where federal agencies are facing the challenges of transforming themselves, some agencies have begun to create results-oriented organizational cultures where unit and individual performance is linked to organizational goals. Effective performance management systems can help create such cultures by providing objective information to allow managers to make meaningful distinctions in performance in order to reward top performers and deal with poor performers. For example, final regulations establishing the Department of Homeland Security's (DHS) new human capital system state that DHS supervisors and managers are to be held accountable for making meaningful distinctions among employees based on performance, fostering and rewarding excellent performance, and addressing poor performance. Although poor performance is not defined by statute, title 5 of the *United States Code* characterizes unacceptable performance as "performance of an employee which fails to meet established performance standards

in one or more critical elements of such employee's position.”<sup>1</sup> The DHS and the proposed Department of Defense (DOD) systems deny pay increases to employees with unacceptable performance ratings.<sup>2</sup>

The exact number of poor performers in the federal government is unknown; however, it is generally agreed that even a small number of poor performers can have a negative impact on the work environment. In this regard, general agreement exists that poor performance should be addressed earlier rather than later, with the objective of improving the performance. Surveys of supervisors and employees have identified a number of impediments to taking action to deal with poor performance.

Based on your request for information on issues relating to the management of poor performers in the federal government, our objectives were to:

- 1) Synthesize and update currently available information related to the
  - magnitude of the poor performer issue in the federal government;
  - tools and approaches available to agencies, including DHS and DOD, for addressing poor performance; and
  - impediments identified to dealing with poor performers.
- 2) Present key factors for addressing poor performance, based on past work and leading practices.

To accomplish these objectives, we reviewed our prior work as well as that of the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM); data on performance appraisal ratings from OPM’s Central Personnel Data File (CPDF); and recently issued DHS’s final and DOD’s proposed regulations establishing their personnel and performance management systems. We performed our work from January through March 2005 in accordance with generally accepted government auditing standards.

We provided detailed briefings on the results of our work to the requesters’ staffs.<sup>3</sup> The briefing slides are included in the enclosure. The purpose of this letter is to provide the slides to you along with additional information, as requested, on authority that federal agencies have to extend the duration of the probationary period for new employees.

In brief, we reported that studies provide varying indicators of the magnitude of poor performance in the federal workforce. For example, while a 1999 OPM survey of supervisors estimated that poor performers constituted about 3.7 percent of the federal workforce, CPDF data indicate that of those employees rated in fiscal year 2003, 0.3 percent received an unacceptable performance rating. In MSPB’s 2000 survey, employees perceived that 14.3 percent of their coworkers were performing

---

<sup>1</sup>5 U.S.C. § 4301(3). See also 5 C.F.R. § 432.103(h).

<sup>2</sup>5 C.F.R. § 9701.323 and § 9701.335; proposed 5 C.F.R. § 9901.323 and § 9901.334.

<sup>3</sup>On May 26, 2005, and on June 21, 2005, we briefed the requesters’ staffs.

below reasonably expected levels. Some of the variance in the survey results can be attributed to the populations surveyed and the questions posed.

Various tools and approaches are available to deal with performance, including poor performance. We provide several examples, which are not intended to be representative of all approaches available to agencies. Foremost, as we have stated, establishing an effective performance management system is important in providing candid and constructive feedback to help individuals maximize their performance. Effective use of probationary periods to rigorously review employee performance is also important since the probationary period may be viewed as the final opportunity to evaluate performance before permanent appointment. Furthermore, some agencies have used other approaches, unrelated to performance management or probationary employment, to address poor performance. Such approaches include denying pay increases to employees with unacceptable performance ratings, streamlining the appeals processes, and increasing the use of alternative dispute resolution to address workplace disputes that involve disciplinary or adverse actions.

In response to the question about the authority available to agencies to extend the probationary period, we note that section 3321 of title 5 of the United States Code does not contain any specified time periods. However, the critical feature of dealing with poor performance during the probationary period is the limitation on appeal rights, and under chapter 75 of title 5, full appeal rights are extended to any employee (including a probationary employee) who has completed more than 1 year of continuous service.<sup>4</sup> Therefore, any decision to allow agencies to extend probationary periods beyond 1 year and to include the limitation on appeal rights would require legislative action. For example, both DHS and DOD, which are exempt from chapter 75 of title 5, have provided their managers with the flexibility to go beyond the standard 1-year period of probation. We have reported that other agencies have been granted the authority to extend the probationary period. For example, demonstration projects at the Department of Commerce and the National Institute of Standards and Technology included probationary periods of up to 3 years for specific occupation groups.<sup>5</sup>

Various studies, reports, and surveys of federal supervisors and employees we reviewed have identified various impediments to dealing with poor performance, including issues related to (1) time and complexity of the processes; (2) lack of training in performance management; and (3) communication, including the dislike of confrontation. Results of OPM's 2004 Federal Human Capital Survey, published subsequent to the completion of our audit work, support the view that impediments still exist.<sup>6</sup> Responding to the statement: "In my work unit, steps are taken to deal

---

<sup>4</sup>5 U.S.C. § 7511 (a)(1)(A). See *McCormick v. Department of the Air Force*, 307 F.3d 1339 (Fed. Cir. 2002).

<sup>5</sup>Chapter 47 of title 5 permits agencies to undertake demonstration projects in order to determine whether specified changes in personnel management policies or procedures could result in improved personnel management. For more information on the demonstration projects, see *Human Capital: Implementing Pay for Performance at Selected Demonstration Projects*, GAO-04-83 (Washington, D.C.: Jan. 23, 2004).

<sup>6</sup>Office of Personnel Management, *What Do Federal Employees Say* (Washington, D.C.: May 2005). The Federal Human Capital Survey is a tool that measures employees' perceptions of whether, and to what extent, conditions characterizing successful organizations are present in their agencies.

with a poor performer who cannot or will not improve," 27 percent of respondents agreed or strongly agreed, while 41 percent disagreed or strongly disagreed.<sup>7</sup>

Looking forward, it will be important to carefully evaluate the implementation of DHS's and DOD's personnel and performance management systems to determine their effectiveness and potential application governmentwide, including the tools and approaches that are aimed at addressing poor performance. However, this will take time. In the interim, it will be important to continue to institute performance-based cultures and provide adequate training and resources on performance management.

-----

We are sending copies of this report to the Director, Office of Personnel Management; the Chairman, Merit Systems Protection Board; and other interested parties. Copies will also be made available to others on request. Should you or your staff have any questions concerning this report, please contact me on 202-512-9490 or by e-mail at [stalcupg@gao.gov](mailto:stalcupg@gao.gov). Marianne Anderson, Karin Fangman, Anthony Fernandez, Anthony Lofaro, Belva Martin, and Gregory Wilmoth were key contributors to this report.



George H. Stalcup  
Director, Strategic Issues

Enclosure

---

<sup>7</sup>By comparison, in OPM's first survey in 2002, 25 percent agreed or strongly agreed that steps were taken to deal with poor performers, while 46 percent disagreed or strongly disagreed.



# Poor Performers in the Federal Workplace

Briefing for the House Committee on  
Government Reform  
June 21, 2005



## Contents

- **Objectives**
- **Scope and Methodology**
- **Magnitude of the Poor Performer Issue**
- **Tools and Approaches Available for Addressing Poor Performance**
- **Impediments to Dealing with Poor Performance**
- **Key Factors for Addressing Poor Performance**
- **Appendix**



## Objectives

Based on a request for information and a contemporary perspective on issues related to management of poor performers in the federal government, our specific objectives were as follows:

- Synthesize and update information related to the
  - **magnitude** of the poor performer issue;
  - **tools and approaches** for addressing poor performance, including new authorities provided to the Department of Homeland Security (DHS) and the Department of Defense (DOD); and
  - **impediments** to dealing with poor performance.
- Present key factors for addressing poor performance, based on past work and leading practices.



## Scope and Methodology

To accomplish our objectives, we reviewed the following:

- prior work of government organizations with expertise in federal workforce issues and performance management, including GAO, the Merit Systems Protection Board (MSPB), and the Office of Personnel Management (OPM);
- performance management data from OPM's Central Personnel Data File (CPDF);
- recently issued DHS final and DOD proposed regulations establishing their personnel and performance management systems; and
- data on performance-related initiatives undertaken by other agencies, for example, recent pay-for-performance demonstration projects.

From these sources, we have selected illustrative examples of tools and approaches government agencies use (or plan to use) to deal with poor performance. These examples are not representative of all tools and approaches available to agencies.

We performed our work in Washington, D.C., from January through March 2005 in accordance with generally accepted government auditing standards.



## Magnitude of the Poor Performer Issue

### What is Poor Performance?

Although “poor performance” is not defined by statute, Title 5 of the *United States Code* characterizes unacceptable performance as “performance of an employee which fails to meet established performance standards in one or more critical elements of such employee’s position.”<sup>1</sup>

In a 1999 report, OPM characterized poor performers as “employees with whom you are seriously disappointed. You have little confidence that they will do their jobs right. You often have to redo their work, or you may have had to severely modify their assignments to give them only work that they can do, which is much less than you would otherwise want them to do. They are just not pulling their weight.”<sup>2</sup>

---

<sup>1</sup> 5 U.S.C. § 4301(3). See also, 5 C.F.R. § 432.103(h).

<sup>2</sup> OPM, Office of Merit Systems Oversight and Effectiveness, Report of a Special Study, *Poor Performers in Government: A Quest for the True Story* (Washington, D.C.: January 1999).



## Magnitude of the Poor Performer Issue

### Poor Performance Distinguished from Misconduct

According to OPM, poor performance and misconduct are often interrelated; nevertheless, it is important to recognize the difference between the two. OPM describes misconduct as a failure to follow a workplace rule (e.g., tardiness and absenteeism) and poor performance as the failure of an employee to do his or her job at an acceptable level.<sup>3</sup>

<sup>3</sup> OPM, Resource Center for Addressing and Resolving Poor Performance (Washington, D.C.: OPM) <http://www.opm.gov/er/poor/understanding.asp> (downloaded Feb. 25, 2005).



## Magnitude of the Poor Performer Issue

### Scope of Issue

Data on employee performance appraisal ratings, as well as studies and surveys of federal supervisors, provide varying estimates of the magnitude of poor performance in the federal workforce.

Data from the CPDF indicate that a very small percentage of employees were rated unacceptable.<sup>4</sup>

- CPDF data indicate that of those federal employees rated in fiscal year 2003, 0.3 percent received an unacceptable performance rating while approximately 99.7 percent received a rating of acceptable or higher (includes ratings of acceptable, fully successful, exceeds expectations, and outstanding).<sup>5</sup>

<sup>4</sup> CPDF information from OPM, as of September 30, 2003. These data are the most recent available.

<sup>5</sup> About 21 percent of employees were not rated in fiscal year 2003.



## Magnitude of the Poor Performer Issue

### Scope of Issue (continued)

Studies and surveys of supervisors and employees, in comparison to CPDF data, provide higher estimates of those whose performance is poor or below reasonably expected levels.

- A January 1999 OPM survey of supervisors estimated that poor performers constitute **3.7** percent of the federal workforce.<sup>6</sup>
- Employees participating in the MSPB 2000 survey perceived that **14.3** percent of their coworkers were performing below reasonably expected levels.<sup>7</sup>

MSPB survey results found that employees generally felt that their work units were more productive in cases when no coworkers in their unit were identified as poor performers. Moreover, studies suggest that even a small number of poor performers can have a negative effect on a work environment.<sup>8</sup>

<sup>6</sup> OPM (1999). OPM reported a 95 percent confidence level that the percentage of poor performers is between 2.8 and 4.6 percent.  
<sup>7,8</sup> MSPB, Office of Policy and Evaluation, *The Federal Workforce for the 21<sup>st</sup> Century, Results of the Merit Principles Survey 2000* (Washington, D.C.: September 2003). Fiscal year 2000 MSPB survey results are the most recent available.



## Tools and Approaches Available for Addressing Poor Performance

There are a number of tools and approaches available to address performance, including poor performance, within a merit-based system that contains appropriate safeguards.

- An effective **performance management system** creates a clear linkage—“line of sight”—between individual performance and organizational success<sup>9</sup> in a number of ways, including
  - providing adequate training on the performance management system,
  - using core competencies to reinforce organizational objectives,
  - addressing performance on an ongoing basis, and
  - ensuring that processes are transparent.
- A **probationary period** provides managers with a provisional period to rigorously review employee performance.
- **Other tools** may apply to circumstances that cannot be resolved using performance management, probationary employment, or both:
  - eliminating opportunity period,
  - denying pay increases to employees with unacceptable performance,
  - streamlining appeals processes to minimize delays, and
  - increasing use of Alternative Dispute Resolution (ADR).

On the next five slides, we provide examples of each of these tools and approaches to illustrate how some agencies have used or propose to use them. As requested, we have included a number of examples of the new authorities provided to DHS and DOD.

<sup>9</sup> See GAO, *Results-Oriented Cultures: Creating a Clear Linkage between Individual Performance and Organizational Success*, GAO-03-488 (Washington, D.C.: Mar. 14, 2003). In this report, we identify nine performance management practices for federal agencies to develop modern, effective, and credible performance management systems. See appendix for the highlights page of this report.



## Tools and Approaches Available for Addressing Poor Performance

### Tool – Performance management system

Approach	Example
Providing adequate training to managers and supervisors on the performance management system	<ul style="list-style-type: none"><li>DHS emphasizes training,<sup>10</sup> including ensuring that managers and supervisors understand how to establish and communicate performance expectations and assess employee performance.</li></ul>
Using core competencies to reinforce organizational objectives	<ul style="list-style-type: none"><li>DHS allows, but does not require, the development of core competencies.<sup>11</sup></li><li>The Civilian Acquisition Workforce Personnel and Naval Research Laboratory demonstration projects<sup>12</sup> use core competencies for all positions. For example, the Civilian Acquisition Workforce Personnel demonstration project uses core competencies such as customer relations and problem solving.</li></ul>

<sup>10</sup> 5 C.F.R. § 9701.401 (b) (5). The recent regulatory changes to DHS's personnel management system have not been fully implemented.

<sup>11</sup> 5 C.F.R. § 9701.406 (c) (4). The appendix includes the highlights page for GAO-05-320T, which includes observations on the DHS regulations.

<sup>12</sup> GAO, *Human Capital: Implementing Pay for Performance at Selected Personnel Demonstration Projects*, GAO-04-83 (Washington, D.C.: Jan. 23, 2004).



## Tools and Approaches Available for Addressing Poor Performance

### Tool – Performance management system

Approach	Example
Addressing performance on an ongoing basis through regular feedback and mentoring	<ul style="list-style-type: none"><li>The new <b>DHS</b> and the proposed <b>DOD</b> human capital systems require that supervisors provide timely periodic feedback to employees, including one or more interim performance reviews during each appraisal period.<sup>13</sup></li></ul>
Ensuring that processes are transparent to provide fairness in the performance management system	<ul style="list-style-type: none"><li>Demonstration projects at the Naval Sea Systems Command Warfare Center's (NAVSEA) Newport division and the National Institute of Standards and Technology (NIST) publish aggregated information on internal Web sites about the performance management process, such as performance ratings and average pay increase amounts.<sup>14</sup></li></ul>

<sup>13</sup> 5 C.F.R. § 9701.407; proposed 5 C.F.R. § 9901.407.

<sup>14</sup> GAO-04-83.



The GAO logo features a stylized American flag design where the stars and stripes are replaced by the letters "GAO". Below the letters, the words "Accountability \* Integrity \* Reliability" are written in a smaller font.

## Tools and Approaches Available for Addressing Poor Performance

### Tool – Probationary period

Approach	Example
Using a probationary period to rigorously review employee performance <sup>15</sup>	<ul style="list-style-type: none"><li>As part of its new human capital system, DHS includes an initial service period, similar to a probationary period, of up to 2 years for designated positions in order for employees to demonstrate appropriate competencies.<sup>16</sup></li><li>Demonstration projects at NIST and the Department of Commerce gained authority to establish probationary periods of up to 3 years for specific occupation groups.<sup>17</sup></li></ul>

<sup>15</sup> MSPB also recommends providing agencies with the flexibility to establish the length of the probationary period. See MSPB, Office of Policy and Evaluation, *Making the Public Service Work: Recommendations for Change* (Washington, DC: Sept. 3, 2002).

<sup>16</sup> DHS regulations treat removal during an initial service period the same as removal during a probationary period. 5 C.F.R. § 9701.605.

<sup>17</sup> GAO-04-83.



## Tools and Approaches Available for Addressing Poor Performance

### Other

Approach	Example
Eliminating the opportunity period to streamline processes to deal with unacceptable performance	<ul style="list-style-type: none"><li>DHS and proposed DOD regulations provide supervisors the option of not using an opportunity period before taking an adverse action.<sup>18</sup></li></ul>
Denying pay increases to employees with unacceptable performance	<ul style="list-style-type: none"><li>DHS and proposed DOD systems deny pay increases to employees with unacceptable performance ratings.<sup>19</sup></li><li>The demonstration project at NAVSEA-Newport has the authority to deny a pay increases to employees rated unacceptable.<sup>20</sup></li></ul>

<sup>18</sup> 5 C.F.R. § 9701.408 (b)(1); proposed 5 C.F.R. § 9901.408 (b)(1).

<sup>19</sup> 5 C.F.R. §§ 9701.323 and § 9701.335; proposed 5 C.F.R. § 9901.323 and § 9901.334.

<sup>20</sup> GAO-04-83. Note: While Newport had the authority to deny pay increases under these circumstances, no employees were actually rated unacceptable during the demonstration project.



## Tools and Approaches Available for Addressing Poor Performance

### Other

Approach	Example
Streamlining appeals processes to minimize delays in processing appeals, while ensuring due process protections	<ul style="list-style-type: none"><li>New <b>DHS</b> regulations shorten time allocated for an employee to respond to adverse action and provide an accelerated MSPB adjudication process.<sup>21</sup></li></ul>
Increasing use of ADR to make the redress process less adversarial and time-consuming	<ul style="list-style-type: none"><li>New <b>DHS</b> and proposed <b>DOD</b> regulations continue to support the use of ADR, including use of ombudsmen as an informal alternative for addressing conflicts.<sup>22</sup></li></ul>

<sup>21</sup> 5 C.F.R. §§ 9701.609-9701.611, 5 C.F.R. § 9701.706, and 5 C.F.R. § 9701.707.

<sup>22</sup> 5 C.F.R. § 9701.705; proposed 5 C.F.R. § 9901.806.



## Impediments to Dealing with Poor Performance

- Recent reports, studies, and surveys of federal supervisors and employees<sup>23</sup> identify elements of the **performance management process** and the **appeals process** that can act as impediments to dealing with poor performance.
- These sources often mention the following issues when discussing impediments to dealing with poor performance:
  - **time involved and the complexity** of the processes;
  - **lack of training** in performance management; and
  - **communication issues**, including dislike of confrontation.

---

<sup>23</sup> MSPB (1999, 2002, 2003); OPM (1999).



## Impediments to Dealing with Poor Performance

MSPB surveys and reports include the following selected examples of impediments to dealing with poor performance:<sup>24</sup>

### Performance Management Process

- Supervisors may find processes to document performance deficiencies and take corrective action,<sup>25</sup> such as developing a Performance Improvement Plan (PIP), **time-consuming and complex**.
- Supervisors may lack confidence in the performance management system for a number of reasons, such as perceiving that upper management may not support them in taking adverse actions.
- Supervisors, although they may have strong technical skills, may **lack experience and training in performance management**, as well as an understanding of the procedures for taking corrective actions against poor performers.

*MSPB reported that 74 percent of supervisors linked problems in dealing with poor performers to a lack of confidence in the performance management system.<sup>26</sup>*

<sup>24</sup> MSPB (2003).

<sup>25</sup> See appendix, slide 22, which outlines formal processes for dealing with poor performers.

<sup>26</sup> See footnote 24.



## Impediments to Dealing with Poor Performance

MSPB and OPM surveys and reports include the following selected examples of impediments to dealing with poor performance:<sup>27</sup>

### Performance Management Process

- **Ongoing communication** between supervisors and employees concerning job expectations and performance was lacking.
- Dislike of confrontation may deter supervisors from taking steps to address performance issues.
- Fear of creating a negative work environment may make supervisors reluctant to address poor performers.
- **Sufficient time** to determine whether probationary employee should be retained was not available.

---

*MSPB found that 40 percent of supervisors said that supervising an employee during an improvement period was “very difficult.”<sup>28</sup>*

---

<sup>27</sup> MSPB (1999, 2002, 2003); OPM (1999).

<sup>28</sup> MSPB (2003).



## Impediments to Dealing with Poor Performance

MSPB surveys and reports include the following selected examples of impediments to dealing with poor performance:<sup>29</sup>

### Appeals Process

- Supervisors may be hesitant to take action to address employee performance due to complicated and **time-consuming** appeals processes, lack of adequate support from human resources personnel and management, or both.<sup>30</sup>
- Supervisors may fear that taking an action will result in an employee filing an Equal Employment Opportunity complaint.

---

*MSPB reported that 39 percent of supervisors identified an employee filing a discrimination complaint as a reason for their experiencing difficulty in dealing with a performance problem.<sup>31</sup>*

---

<sup>29</sup> MSPB (Results of 2000 Merit Principles Survey).

<sup>30</sup> See appendix, slide 23, which lists the avenues of redress for employees facing adverse actions.

<sup>31</sup> See footnote 29.



## Key Factors for Addressing Poor Performance

DOD and DHS have recently been given flexibility in establishing their own human resources management systems. It will be important to carefully evaluate the implementation of changes to the DHS and DOD personnel and performance management systems to determine their effectiveness and potential application governmentwide, including the approaches that address poor performance.

Additionally, based on past work and leading practices of GAO, OPM, and MSPB, several key factors could help agencies manage performance, specifically dealing effectively with poor performance.

1. Instituting a modern, effective, and credible performance management system, with appropriate safeguards,
  - provide a line of sight between individual performance and organizational success,
  - ensure that processes are well understood and transparent, and
  - hold managers accountable by measuring whether they are using the tools and approaches available to address poor performance.



## Key Factors for Addressing Poor Performance

2. Addressing poor performance and resolving redress matters as early as possible,
  - conduct a rigorous review of probationary employees' performance,
  - provide performance-related feedback on a continual basis, and
  - emphasize use of ADR.
3. Incorporating adequate training and resources on performance management,
  - use "just-in-time" training on techniques for addressing poor performance and resolving appeals, and
  - ensure that supervisors have adequate support from upper-level management and human capital staff in taking action to deal with poor performance.



## Appendix

- Formal Processes for Dealing with Poor Performers
- Avenues of Redress for Employees Facing Adverse Action
- Additional Sources of Information
  - MSPB Reports and Articles and OPM Information
  - GAO Reports and Testimonies
  - GAO Highlights



## Formal Processes for Dealing with Poor Performers

Under chapter 43 of title 5 of the *United States Code*, supervisors, in order to remove or reduce in grade a nonprobationary employee for unacceptable **performance**, must provide

- an opportunity to improve (e.g., PIP),
- a 30-day advance notice of proposed action,
- the opportunity to respond, and
- a written decision.

Agency actions under chapter 43 must be supported by **substantial evidence**.

Under chapter 75 of title 5 of the *United States Code*, supervisors may also remove, reduce in grade, or take another adverse action<sup>32</sup> against a nonprobationary employee for **performance or conduct** reasons “for such cause as will promote the efficiency of the service.” Under this process, supervisors must provide

- a 30-day advance notice of proposed action,
- the opportunity to respond, and
- a written decision.

Agency actions under chapter 75 must be supported by a **preponderance of the evidence**.<sup>33</sup>

<sup>32</sup> Other adverse actions under this formal process include suspension for more than 14 days, reduction in pay, or a furlough of 30 days or less.

<sup>33</sup> The evidence standard for adverse actions is lower in chapter 43, but managers often opt to use chapter 75 because the process does not require use of PIPs.



## Avenues of Redress for Employees Facing Adverse Actions

Employees may:

- Appeal action to MSPB.<sup>34</sup>
- File a discrimination complaint with their agencies, which provides a right to a hearing before an administrative judge, an appeal of the decision to the Equal Employment Opportunity Commission, and a full review in federal district court.
- File a grievance.

<sup>34</sup> Probationary employees may appeal their removals to MSPB under only limited circumstances, including allegations of discrimination on the basis of marital status or political affiliation. 5 C.F.R. § 315.806.



## Additional Sources of Information

### MSPB Reports and Articles

- *Removing Poor Performers in the Federal Service* (Washington, D.C.: September 1995).
- *Federal Supervisors and Strategic Human Resources Management* (Washington, D.C.: June 1998).
- *What's on the Minds of Federal Human Capital Stakeholders* (Washington, D.C.: May 2004).
- “Drawing Distinctions in Performance and Rewards,” *Issues of MERIT*, (Washington, D.C.: September 2004).
- “Lessons Learned on Removing Poor Performers,” *Issues of MERIT*, (Washington, D.C.: Summer 2004).  
(See [http://www.mspb.gov/studies/studies\\_archive.html](http://www.mspb.gov/studies/studies_archive.html).)



## Additional Sources of Information

### OPM information

- *Addressing and Resolving Poor Performance, An Interactive Tool for Supervisors* (Washington, D.C.: January 1998). (CD format.)

### GAO Reports and Testimonies

- *Federal Employee Redress: An Opportunity for Reform*. GAO/T-GGD-96-42. Washington, D.C.: November 29, 1995.
- *Performance Management: How Well is the Government Dealing with Poor Performers*. GAO/GGD-91-7. Washington, D.C.: October 2, 1990.



## Additional Sources of Information

### GAO Highlights

Highlights from these GAO reports are included at the end of this appendix:

- *Results-Oriented Cultures: Creating a Clear Linkage between Individual Performance and Organizational Success.* GAO-03-488. Washington, D.C.: March 14, 2003.
- *Human Capital: Implementing Pay for Performance at Selected Personnel Demonstration Projects.* GAO-04-83. Washington, D.C.: January 23, 2004.
- *Human Capital: Preliminary Observations on Final Department of Homeland Security Human Capital Regulations.* GAO-05-320T. Washington, D.C.: February 10, 2005.
- *Human Capital: Preliminary Observations on Proposed DOD National Security Personnel System Regulations.* GAO-05-432T. Washington, D.C.: March 15, 2005.

**G A O**  
Accountability Integrity Reliability

# Highlights

Highlights of GAO-03-488, a report to congressional requesters

## Why GAO Did This Study

The federal government is in a period of profound transition and faces an array of challenges and opportunities to enhance performance, ensure accountability, and position the nation for the future. High-performing organizations have found that to successfully transform themselves, they must often fundamentally change their cultures so that they are more results-oriented, customer-focused, and collaborative in nature. To foster such cultures, these organizations recognize that an effective performance management system can be a strategic tool to drive internal change and achieve desired results.

Based on previously issued reports on public sector organizations' approaches to reinforce individual accountability for results, GAO identified key practices that federal agencies can consider as they develop modern, effective, and credible performance management systems.

[www.gao.gov/cgi-bin/get rpt?GAO-03-488](http://www.gao.gov/cgi-bin/get rpt?GAO-03-488).

To view the full report, including the scope and methodology, click on the link above. For more information, contact J. Christopher Mihm at (202) 512-6806 or [mihmj@gao.gov](mailto:mihmj@gao.gov).

March 2003

## RESULTS-ORIENTED CULTURES

### Creating a Clear Linkage between Individual Performance and Organizational Success

#### What GAO Found

Public sector organizations both in the United States and abroad have implemented a selected, generally consistent set of key practices for effective performance management that collectively create a clear linkage—"line of sight"—between individual performance and organizational success. These key practices include the following.

- 1. Align individual performance expectations with organizational goals.** An explicit alignment helps individuals see the connection between their daily activities and organizational goals.
- 2. Connect performance expectations to crosscutting goals.** Placing an emphasis on collaboration, interaction, and teamwork across organizational boundaries helps strengthen accountability for results.
- 3. Provide and routinely use performance information to track organizational priorities.** Individuals use performance information to manage during the year, identify performance gaps, and pinpoint improvement opportunities.
- 4. Require follow-up actions to address organizational priorities.** By requiring and tracking follow-up actions on performance gaps, organizations underscore the importance of holding individuals accountable for making progress on their priorities.
- 5. Use competencies to provide a fuller assessment of performance.** Competencies define the skills and supporting behaviors that individuals need to effectively contribute to organizational results.
- 6. Link pay to individual and organizational performance.** Pay, incentive, and reward systems that link employee knowledge, skills, and contributions to organizational results are based on valid, reliable, and transparent performance management systems with adequate safeguards.
- 7. Make meaningful distinctions in performance.** Effective performance management systems strive to provide candid and constructive feedback and the necessary objective information and documentation to reward top performers and deal with poor performers.
- 8. Involve employees and stakeholders to gain ownership of performance management systems.** Early and direct involvement helps increase employees' and stakeholders' understanding and ownership of the system and belief in its fairness.
- 9. Maintain continuity during transitions.** Because cultural transformations take time, performance management systems reinforce accountability for change management and other organizational goals.

United States General Accounting Office

 G A O  
Accountability•Integrity•Reliability  
**Highlights**

Highlights of GAO-04-83, a report to congressional requesters

### Why GAO Did This Study

There is a growing understanding that the federal government needs to fundamentally rethink its current approach to pay and to better link pay to individual and organizational performance. Federal agencies have been experimenting with pay for performance through the Office of Personnel Management's (OPM) personnel demonstration projects.

GAO identified the approaches that selected personnel demonstration projects have taken to implement their pay for performance systems. These projects include: the Navy Demonstration Project at China Lake (China Lake), the National Institute of Standards and Technology (NIST), the Department of Commerce (DOC), the Naval Research Laboratory (NRL), the Naval Sea Systems Command Warfare Centers (NAVSEA) at Dahlgren and Newport, and the Civilian Acquisition Workforce Personnel Demonstration Project (AcqDemo). We selected these demonstration projects based on factors such as status of the project and makeup of employee groups covered.

We provided drafts of this report to officials in the Department of Defense (DOD) and DOC for their review and comment. DOD provided written comments concurring with our report. DOC provided minor technical clarifications and updated information. We provided a draft of the report to the Director of OPM for her information.

[www.gao.gov/cgi-bin/getrpt?GAO-04-83](http://www.gao.gov/cgi-bin/getrpt?GAO-04-83).

To view the full product, including the scope and methodology, click on the link above. For more information, contact J. Christopher Mihm at (202) 512-6806 or [mihmj@gao.gov](mailto:mihmj@gao.gov).

January 2004

## HUMAN CAPITAL

### Implementing Pay for Performance at Selected Personnel Demonstration Projects

### What GAO Found

The demonstration projects took a variety of approaches to designing and implementing their pay for performance systems to meet the unique needs of their cultures and organizational structures, as shown in the table below.

#### Demonstration Project Approaches to Implementing Pay for Performance

##### Using competencies to evaluate employee performance.

High-performing organizations use validated core competencies as a key part of evaluating individual contributions to organizational results. To this end, AcqDemo and NRL use core competencies for all positions. Other demonstration projects, such as NIST, DOC, and China Lake, use competencies based on the individual employee's position.

##### Translating employee performance ratings into pay increases and awards.

Some projects, such as China Lake and NAVSEA's Newport division, established predetermined pay increases, awards, or both depending on a given performance rating, while others, such as DOC and NIST, delegated the flexibility to individual pay pools to determine how ratings would translate into performance pay increases, awards, or both. The demonstration projects made some distinctions among employees' performance.

##### Considering current salary in making performance-based pay decisions.

Several of the demonstration projects, such as AcqDemo and NRL, consider an employee's current salary when making performance pay increases and award decisions to make a better match between an employee's compensation and contribution to the organization.

##### Managing costs of the pay for performance system.

According to officials, salaries, training, and automation and data systems were the major cost drivers of implementing their pay for performance systems. The demonstration projects used a number of approaches to manage the costs.

##### Providing information to employees about the results of performance appraisal and pay decisions.

To ensure fairness and safeguard against abuse, performance-based pay programs should have adequate safeguards, including reasonable transparency in connection with the results of the performance management process. To this end, several of the demonstration projects publish information, such as the average performance rating, performance pay increase, and award.

Source: GAO.

GAO strongly supports the need to expand pay for performance in the federal government. How it is done, when it is done, and the basis on which it is done can make all the difference in whether such efforts are successful. High-performing organizations continuously review and revise their performance management systems. These demonstration projects show an understanding that how to better link pay to performance is very much a work in progress at the federal level. Additional work is needed to strengthen efforts to ensure that performance management systems are tools to help them manage on a day-to-day basis. In particular, there are opportunities to use organizationwide competencies to evaluate employee performance that reinforce behaviors and actions that support the organization's mission, translate employee performance so that managers make meaningful distinctions between top and poor performers with objective and fact-based information, and provide information to employees about the results of the performance appraisals and pay decisions to ensure reasonable transparency and appropriate accountability mechanisms are in place.

United States General Accounting Office

 G A O  
Accountability Integrity Reliability  
**Highlights**

Highlights of GAO-05-320T, a testimony before the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, Committee on Homeland Security and Governmental Affairs, U.S. Senate

### Why GAO Did This Study

At the center of any agency transformation, such as the one envisioned for the Department of Homeland Security (DHS), are the people who will make it happen. Thus, strategic human capital management at DHS can help it marshal, manage, and maintain the people and skills needed to meet its critical mission. Congress provided DHS with significant flexibility to design a modern human capital management system. DHS and the Office of Personnel Management (OPM) have now jointly released the final regulations on DHS's new human capital system.

Last year, with the release of the proposed regulations, GAO observed that many of the basic principles underlying the regulations were consistent with proven approaches to strategic human capital management and deserved serious consideration. However, some parts of the human capital system raised questions for DHS, OPM, and Congress to consider in the areas of pay and performance management, adverse actions and appeals, and labor management relations. GAO also identified multiple implementation challenges for DHS once the final regulations for the new system were issued.

This testimony provides preliminary observations on selected provisions of the final regulations.

[www.gao.gov/cgi-bin/get rpt?GAO-05-320T](http://www.gao.gov/cgi-bin/get rpt?GAO-05-320T).

To view the full product, including the scope and methodology, click on the link above. For more information, contact Eileen Larence at (202) 512-6806 or [larencee@gao.gov](mailto:larencee@gao.gov).

February 10, 2005

## HUMAN CAPITAL

### Preliminary Observations on Final Department of Homeland Security Human Capital Regulations

#### What GAO Found

GAO believes that the regulations contain many of the basic principles that are consistent with proven approaches to strategic human capital management. For example, many elements for a modern compensation system—such as occupational clusters, pay bands, and pay ranges that take into account factors such as labor market conditions—are to be incorporated into DHS's new system. However, these final regulations are intended to provide an outline and not a detailed, comprehensive presentation of how the new system will be implemented. Thus, DHS has considerable work ahead to define the details of the implementation of its system and understanding these details is important in assessing the overall system.

The implementation challenges we identified last year are still critical to the success of the new system. Also, DHS appears to be committed to continue to involve employees, including unions, throughout the implementation process. Specifically, according to the regulations, employee representatives or union officials are to have opportunities to participate in developing the implementing directives, hold four membership seats on the Homeland Security Compensation Committee, and help in the design and review the results of evaluations of the new system. Further, GAO believes that to help ensure the quality of that involvement, DHS will need to

*Ensure sustained and committed leadership.* A Chief Operating Officer/Chief Management Officer or similar position at DHS would serve to elevate, integrate, and institutionalize responsibility for this critical endeavor and help ensure its success by providing the continuing, focused attention needed to successfully complete the multiyear conversion to the new human capital system.

*Establish an overall communication strategy.* According to DHS, its planned communication strategy for its new human capital system will include global e-mails, satellite broadcasts, Web pages, and an internal DHS weekly newsletter. A key implementation step for DHS is to assure an effective and on-going two-way communication effort that creates shared expectations among managers, employees, customers, and stakeholders.

While GAO strongly supports human capital reform in the federal government, how it is done, when it is done, and the basis on which it is done can make all the difference in whether such efforts are successful. GAO's implementation of its own human capital authorities, such as pay bands and pay for performance, could help inform other organizations as they design systems to address their human capital needs. The final regulations for DHS's new system are especially critical because of the potential implications for related governmentwide reforms.

March 15, 2005

# G A O Accountability·Integrity·Reliability **Highlights**

Highlights of GAO-05-432T, a testimony to the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, Committee on Homeland Security and Governmental Affairs, U.S. Senate

## Why GAO Did This Study

The Department of Defense's (DOD) new human resources management system—the National Security Personnel System (NSPS)—will have far-reaching implications for the management of the department and for civil service reform across the federal government. The National Defense Authorization Act for Fiscal Year 2004 gave DOD significant authorities to redesign the rules, regulations, and processes that govern the way that more than 700,000 defense civilian employees are hired, compensated, promoted, and disciplined. In addition, NSPS could serve as a model for governmentwide transformation in human capital management. However, if not properly designed and effectively implemented, it could severely impede progress toward a more performance- and results-based system for the federal government as a whole.

On February 14, 2005, the Secretary of Defense and Acting Director of the Office of Personnel Management (OPM) released for public comment the proposed NSPS regulations. This testimony (1) provides GAO's preliminary observations on selected provisions of the proposed regulations, (2) discusses the challenges DOD faces in implementing the new system, and (3) suggests a governmentwide framework to advance human capital reform.

[www.gao.gov/cgi-bin/getrpt?GAO-05-432T](http://www.gao.gov/cgi-bin/getrpt?GAO-05-432T).

To view the full product, including the scope and methodology, click on the link above. For more information, contact Derek B. Stewart at (202) 512-5559 or [stewartd@gao.gov](mailto:stewartd@gao.gov).

## HUMAN CAPITAL

# Preliminary Observations on Proposed DOD National Security Personnel System Regulations

## What GAO Found

Given DOD's massive size and its geographically and culturally diverse workforce, NSPS represents a huge undertaking for DOD. DOD's initial process to design NSPS was problematic; however, after a strategic reassessment, DOD adjusted its approach to reflect a more cautious, deliberate process that involved more stakeholders, including OPM.

Many of the principles underlying the proposed NSPS regulations are generally consistent with proven approaches to strategic human capital management. For instance, the proposed regulations provide for (1) elements of a flexible and contemporary human resources management system—such as pay bands and pay for performance; (2) DOD to rightsize its workforce when implementing reduction-in-force orders by giving greater priority to employee performance in its retention decisions; and (3) continuing collaboration with employee representatives. (It should be noted that 10 federal labor unions have filed suit alleging that DOD failed to abide by the statutory requirements to include employee representatives in the development of DOD's new labor relations system authorized as part of NSPS.)

GAO has three primary areas of concern: the proposed regulations do not (1) define the details of the implementation of the system, including such issues as adequate safeguards to help ensure fairness and guard against abuse; (2) require, as GAO believes they should, the use of core competencies to communicate to employees what is expected of them on the job; and (3) identify a process for the continuing involvement of employees in the planning, development, and implementation of NSPS.

Going forward, GAO believes that (1) the development of the position of Deputy Secretary of Defense for Management, who would act as DOD's Chief Management Officer, is essential to elevate, integrate, and institutionalize responsibility for the success of DOD's overall business transformation efforts, including its new human resources management system; (2) DOD would benefit if it develops a comprehensive communications strategy that provides for ongoing, meaningful two-way communication that creates shared expectations among employees, employee representatives, and stakeholders; and (3) DOD must ensure that it has the institutional infrastructure in place to make effective use of its new authorities before they are operationalized.

GAO strongly supports the concept of modernizing federal human capital policies, including providing reasonable flexibility. There is general recognition that the federal government needs a framework to guide human capital reform. Such a framework would consist of a set of values, principles, processes, and safeguards that would provide consistency across the federal government but be adaptable to agencies' diverse missions, cultures, and workforces.

United States Government Accountability Office

---

## GAO's Mission

The Government Accountability Office, the audit, evaluation and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

---

## Obtaining Copies of GAO Reports and Testimony

### Order by Mail or Phone

The fastest and easiest way to obtain copies of GAO documents at no cost is through GAO's Web site ([www.gao.gov](http://www.gao.gov)). Each weekday, GAO posts newly released reports, testimony, and correspondence on its Web site. To have GAO e-mail you a list of newly posted products every afternoon, go to [www.gao.gov](http://www.gao.gov) and select "Subscribe to Updates."

---

The first copy of each printed report is free. Additional copies are \$2 each. A check or money order should be made out to the Superintendent of Documents. GAO also accepts VISA and Mastercard. Orders for 100 or more copies mailed to a single address are discounted 25 percent. Orders should be sent to:

U.S. Government Accountability Office  
441 G Street NW, Room LM  
Washington, D.C. 20548

To order by Phone: Voice: (202) 512-6000  
TDD: (202) 512-2537  
Fax: (202) 512-6061

---

## To Report Fraud, Waste, and Abuse in Federal Programs

Contact:

Web site: [www.gao.gov/fraudnet/fraudnet.htm](http://www.gao.gov/fraudnet/fraudnet.htm)

E-mail: [fraudnet@gao.gov](mailto:fraudnet@gao.gov)

Automated answering system: (800) 424-5454 or (202) 512-7470

---

## Congressional Relations

Gloria Jarmon, Managing Director, [JarmonG@gao.gov](mailto:JarmonG@gao.gov) (202) 512-4400  
U.S. Government Accountability Office, 441 G Street NW, Room 7125  
Washington, D.C. 20548

---

## Public Affairs

Paul Anderson, Managing Director, [AndersonP1@gao.gov](mailto:AndersonP1@gao.gov) (202) 512-4800  
U.S. Government Accountability Office, 441 G Street NW, Room 7149  
Washington, D.C. 20548

---

---

---

This is a work of the U.S. government and is not subject to copyright protection in the United States. It may be reproduced and distributed in its entirety without further permission from GAO. However, because this work may contain copyrighted images or other material, permission from the copyright holder may be necessary if you wish to reproduce this material separately.