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IRS PERSONNEL
FLEXIBILITIES

An Opportunity to Test New
Approaches

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IRS Personnel Flexibilities: An Opportunity to Test New Approaches

GAO was asked to comment on the possible implications of proposed legislation that would give new personnel flexibility to the Internal Revenue Service (IRS). Specifically, H.R. 2676 and S. 1174 would give IRS additional flexibilities relating to performance management, staffing, and the development of demonstration projects. The Senate bill also includes classification and pay provisions (“broad banding”) and “critical pay authority” to help recruit and retain employees in highly skilled, high level, technical and professional positions. The legislative proposals—which would make some flexibilities permanently available and others available for testing—were intended to help IRS improve its service to taxpayers and overcome longstanding performance problems.

GAO had three comments regarding the proposed legislation:

- Because the legislative proposals provide only a broad outline for managing IRS employees, it was difficult for GAO to predict the extent to which the new provisions would help IRS improve its performance and overcome past problems. For example, the IRS Commissioner would have one year to develop a new performance management plan, acting in accordance with both the new legislation and those provisions of Title 5 U.S.C. to which IRS would remain subject. Until the plan is developed and IRS has some experience in implementing the new flexibilities, it would be difficult to predict how helpful the new flexibilities might be in improving IRS’ actual performance or whether such flexibilities might prove worthy of emulation elsewhere in the federal government. GAO noted that the provisions giving IRS permanent flexibilities regarding performance management, staffing, and pay could alternatively be added to the proposed demonstration authority already included in the legislation. Doing so would give IRS the opportunity to shape personnel approaches outside those currently available and gather evaluative data on how well they work—which would also provide information that other agencies could use to assess whether similar changes might improve their personnel systems as well.
- GAO stated that the legislative proposals, focusing as they do on customer service and on aligning employees’ performance with IRS’ mission, goals, and objectives, are in keeping with broad trends that GAO has identified in its previous work on public- and private-sector management. GAO noted that legislation requiring that IRS or any other agency establish a performance management system that focuses employees’ efforts on their agency’s mission and goals will not, in and of itself, guarantee a shift in organizational culture or in traditional ways of doing business. Consistent with its reviews of agencies’ efforts to implement the Government

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Performance and Results Act, GAO stated that the degree of commitment by IRS' leadership would determine whether a new focus on agency mission could be sustained for the long-term.

- Federal agencies, including IRS, need the flexibility to tailor their personnel approaches to best meet the demands of their missions. GAO also noted that granting personnel flexibilities to federal agencies raises important issues as to the extent to which, or the mechanisms whereby, Congress or OPM will oversee these agencies to ensure their continued adherence to applicable civil service laws.

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Mr. Chairman and Members of the Committee:

I am pleased to be here today to discuss some of the possible implications of legislative proposals that would give new personnel flexibility to the Internal Revenue Service (IRS). With federal agencies now called upon to improve customer service and deliver better results to the American people while limiting costs, the need for a well-managed, well-qualified, and highly motivated workforce has never been greater. Therefore, it is not surprising that recent discussions have centered on the amount of flexibility federal agencies should have in hiring and managing their employees. With regard to the personnel flexibility proposals for IRS, I would like to make three points on the basis of our prior body of work in the human resource management area:

- First, because the proposals generally provide a broad outline for managing IRS employees, but not the details, it is difficult to predict to what extent the new provisions will help IRS improve its performance and overcome past problems.
- Second, the proposals, focusing as they do on customer service and on aligning employees' performance with the agency's mission, goals, and objectives, are in keeping with broad trends in the public and private sector that we have identified in our previous work. At IRS or any federal agency, the degree of commitment by top management will determine whether this new focus can be sustained.
- Third, federal agencies such as IRS need the flexibility to tailor their personnel approaches to best meet the demands of their missions. Along with this need for flexibility, there is a need to maintain oversight and accountability mechanisms that will ensure that agencies adhere to the statutorily required merit principles, such as maintaining high standards of integrity, conduct, and concern for the public interest and other national goals, such as veterans' preference.

The personnel flexibility proposals of the kind contained in H.R. 2676 and S. 1174 are intended to help IRS improve its service to taxpayers and overcome problems that have plagued its performance for some time. These flexibility provisions, some of which the bills make permanently available and others available for testing, would allow IRS to manage its employees differently than it does today. As experience is gained in implementing these proposals, some may show considerable benefit and be worthy of emulation elsewhere; others may be less successful. In order to take advantage of the lessons that implementation will yield, Congress may find it appropriate to have IRS test all of its new approaches for a

limited period of time. This would give IRS the opportunity to include effective planning and evaluative mechanisms in the test and would allow Congress to consider the effects of IRS' personnel changes before deciding whether they should be made permanent.

The New Personnel Flexibilities Could Be Evaluated Before Being Made Permanent

We have examined two bills that would give IRS new flexibilities in managing its workforce: H.R. 2676, which passed the House of Representatives in November 1997, and S. 1174, which has been referred to the Senate Committee on Finance. The bills are similar in that both would give IRS additional flexibilities relating to performance management, staffing, and the development of demonstration projects. The Senate bill also includes classification and pay flexibilities ("broad-banding") and a provision for "critical pay authority" to help recruit and retain employees in highly skilled, high level technical and professional positions. The new flexibilities in performance management, staffing, and pay would be granted permanently, while those initiatives IRS might develop under the bills' demonstration authorities would be subject to testing before being made permanent.

The legislative proposals in H.R. 2676 outline a performance management approach for IRS that would include all IRS employees, with the exception of the IRS Oversight Board, the IRS Commissioner, and the IRS Chief Counsel. The new performance management system would appear to cover Senior Executive Service (SES) members and non-SES employees alike, require that goals and objectives established through IRS organizational performance planning be linked to individual or group performance and used to make performance distinctions among employees or groups of employees, require performance appraisals to have at least two performance rating levels at fully successful or above, allow awards of up to 50 percent of salary for a small number of employees who report directly to the IRS Commissioner, and allow for employee awards based on documented financial savings. It would also require periodic performance evaluations to determine whether employees are meeting all applicable retention standards, and would use the results of employees' performance evaluations as a basis for adjustments in pay and other appropriate personnel actions.

These provisions constitute the broad outlines of a performance management approach aimed at underscoring the importance of accountability for performance and allowing IRS managers more room to reward good performers. The provisions are intended to afford IRS the

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opportunity to address some of its long-standing challenges, which include attracting and retaining the talent necessary to modernize its management practices and bring its technology and administrative systems up-to-date. The provisions may also help IRS focus its employees on the agency's fundamental responsibility for collecting the proper amount of taxes while, at the same time, providing courteous service to those who must pay the taxes.

The details of the new performance management approach are left to the Commissioner, who is charged with developing a plan for the new system within 1 year. Leaving the details to the Commissioner is of course entirely consistent with the bills' approach of granting IRS somewhat greater flexibility to tailor its personnel management to the agency's particular needs. Until the Commissioner develops that plan, acting in accordance with both the new legislation and those provisions of Title 5 to which IRS would remain subject, and has some experience in implementing the new flexibilities, there is no way to predict just how helpful the new flexibilities may be in improving IRS' actual performance.

To the extent that the performance management, staffing, and pay flexibility provisions, as implemented, contribute to improved IRS performance, they not only will be worth retaining in IRS, but also may be worthy of emulation elsewhere in the federal government. If certain provisions do not improve performance, or perhaps unexpectedly detract from performance or have other undesirable consequences, it may be useful to have a means of identifying these problems and pulling the plug if necessary.

Under these circumstances, one useful alternative to permanently authorizing the performance management, staffing, and pay flexibility provisions might be found in the legislation itself. H.R. 2676 would allow the Commissioner to carry out demonstration projects without the screening and approval currently required under the Office of Personnel Management's (OPM) demonstration project authority. The time-limited projects as currently authorized in the bill could be conducted for such purposes as improving personnel management, providing increased individual accountability, and eliminating obstacles to dealing with poor performers. An alternative might be to add the performance management, staffing, and pay flexibility provisions to authorized activities included in the proposed demonstration authority.

Including all of the authorized flexibilities under the demonstration authority would give IRS a chance to see just how well its new approaches work when put into action. IRS would have the opportunity to shape personnel approaches outside those currently available and to develop an evaluative mechanism to gather data on how well they work. Congress would have the opportunity to consider the effects of the new approaches before deciding if they should be made permanent. This option would also provide information that other agencies could use to assess whether similar changes might improve their personnel systems.

The Focus on IRS' Mission and Goals Will Require Top Management's Long-Term Commitment

In our contacts with human resource management experts from public- and private-sector organizations both here and abroad, we have found that successful organizations recognize the importance of organizational mission, vision, and culture as a means of focusing their workforce on the job at hand.¹ At IRS, that job includes more than simply collecting taxes. For example, as Congress is now emphasizing to IRS, it includes fair treatment of the taxpayers as well. According to the House Ways and Means Committee report on H.R. 2676, the new proposals for personnel management at IRS would be aimed at establishing a balanced system of measures that would ensure that taxpayer satisfaction—i.e., customer service—is paramount throughout all IRS functions. For example, while giving IRS greater flexibility in distributing cash awards to employees, H.R. 2676 specifies that awards will not be based solely on tax enforcement results. This is consistent with our belief that IRS employees' performance should be assessed using a balanced set of indicators. Therefore, we believe H.R. 2676 appropriately gives IRS the opportunity to factor in other measures, such as customer service results and employee behavior.

The Committee report also said that the proposed legislation would refocus the IRS personnel system on the agency's overall mission and on how each employee's performance relates to that mission. Across government, some of the agencies now implementing the Government Performance and Results Act (known as GPRA or the Results Act) are engaged in similar efforts, aligning the performance expectations of each level of their organizations, and ultimately of each employee, with the agencies' missions and strategic goals. The Results Act itself was based on principles and best practices established by successful private-sector organizations and by governments at the state and local level and abroad.

¹Transforming the Civil Service: Building the Workforce of the Future, Results of a GAO-Sponsored Symposium (GAO/GGD-96-35, Dec. 20, 1995).

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The challenge for federal agencies such as IRS is to make these principles work for the federal government as well.

Some federal agencies that have tried to align employee performance with agency missions and goals have noted the conceptual challenges involved in becoming more results-oriented.² For example, when we reviewed the experiences of five regulatory agencies affected by the President's March 1995 directive to measure agency and employee performance in terms of results, we found that some of the agencies were further along than others. Officials at the five agencies cited some barriers, mostly involving the need to clarify their missions and establish results-oriented goals and measures, that made creating results-oriented performance standards for employees more difficult. For example, at IRS, one of the five agencies we reviewed, officials said it was difficult to measure the impact that IRS taxpayer education and outreach efforts would have on the agency's goal of increasing voluntary tax compliance rates.

To a significant extent, meeting the challenge of more effectively aligning employees' performance with organizational missions and goals will be an effort that succeeds or fails through its implementation. Nothing in current personnel law or regulation prohibits agencies from establishing goals or objectives for employees that are based on organizational goals, communicating these goals and objectives to the employees, and using these goals or objectives to make performance distinctions for purposes of adjustments in pay and other personnel actions. Still, while many agencies implementing the Results Act have tried to do these things, others have not. Some that have tried have found that the challenges involved are not so much a matter of restrictive personnel rules as of instilling in their managers and other employees a new understanding of their agencies' missions and goals and of what, for each employee, constitutes successful performance.

The H.R. 2676 requirement that IRS establish a performance management system that focuses employees' efforts on their agency's mission and goals could be useful in further directing IRS' attention to this issue. But at IRS or any other agency, requiring this focus by legislation will not, in and of itself, guarantee a shift in organizational culture or in traditional ways of doing business. These things will hinge primarily on the long-term commitment of IRS' leadership to making the agency's new direction clear,

²Managing for Results: Regulatory Agencies Identified Significant Barriers to Focusing on Results (GAO/GGD-97-83, June 24, 1997).

to changing IRS' organizational culture to support it, and to holding all employees accountable for fulfilling IRS' commitment to the taxpayers.

Both H.R. 2676 and S. 1174 also require that before any flexibilities are exercised, management and the employee unions need to enter into a written agreement. This provision underscores the need for a shared commitment to improving performance at every level of the agency. It also underscores the importance of maintaining good working relationships between management and all employees.

Flexibility and Accountability

The proposals for new personnel flexibility at IRS are part of a broader set of proposals to restructure the agency and improve its performance. In facing new pressures to perform, IRS is not alone. In recent years, changes in social, economic, and technological conditions put new pressures on both public and private sector organizations, which had to deal with calls for better performance and growing demands for more responsive customer service, even as resources were becoming harder to come by. Many of these organizations have looked hard at their human resource management approaches, found them outmoded or too confining, and turned to new ways of operating.³

The new human resource management model that many of these organizations have chosen is more decentralized, more directly focused on mission accomplishment, and set up more to establish guiding principles than to prescribe detailed rules and procedures.⁴ Under this model, an organization adopts its human resource management practices because they support the organization's needs and mission, rather than because they conform with practices that have been adopted elsewhere.

Recently, many federal agencies seem to be calling for similar flexibilities. Some have criticized Title 5 as too restrictive and have sought to be excepted from some or all of its provisions. For example, in the past 3 years, the Federal Aviation Administration (FAA) gained the right to establish its own personnel system, the Federal Bureau of Investigation (FBI) gained demonstration authority directly from Congress to change the system under which it pays some of its scientific and technical workers, and the Department of Defense (DOD) has begun developing a proposal for a separate civilian personnel system tailored specifically to its needs. In addition, the administration's initiative to create performance-based

³Civil Service Reform: Changing Times Demand New Approaches (GAO/T-GGD-96-31, Oct. 12, 1995).

⁴GAO/T-GGD-96-31, October 12, 1995.

organizations (PBO) includes personnel features that lie outside the structure of Title 5. The proposals for IRS we are discussing today are part of this general trend.

In our previous work, we have recognized that to manage effectively for results, agencies need the flexibility to manage according to their needs and missions. Under the Results Act, managers are expected to be given greater flexibility to manage, but also to be held more accountable for results.

We have also found that, over the years, Title 5 has evolved to give federal agencies more flexibility than they once had—and often, more than they realize—to tailor their personnel approaches to their missions and needs. But we also know that the federal government has traditionally wanted certain principles to hold true for all its employees. The merit principles and certain other national goals, such as veterans' preference, remain generally applicable to employees of all agencies. In fact, both H.R. 2676 and S. 1174, while giving new personnel flexibilities to IRS beyond those already available to it under Title 5, would specifically require that the agency continue to conform to the merit principles and other national goals.

The question is, what sort of oversight is appropriate as agencies such as IRS gain additional personnel flexibilities outside the traditional purview of Title 5? The current civil service system is already highly decentralized, and current oversight is by no means uniform. What is commonly thought of as the “civil service”—the federal civilian workforce subject to all the provisions of Title 5 and overseen by OPM—comprises just more than half of all federal civil servants.⁵ Technically, this segment is known as the “competitive service,” which operates under the federal merit system. Other federal civilian employees are employed in agencies or other federal entities—such as government corporations (like the Tennessee Valley Authority) and quasi-governmental organizations (like the U.S. Postal Service)—that operate outside Title 5 or are statutorily excepted from parts of it. These workers, while all members of the civil service, are in the “excepted service” and are covered by a variety of alternative merit systems. One of Congress' reasons for establishing alternative merit systems for some federal organizations was to give them a measure of freedom from the rules governing the competitive service under Title 5.

⁵See [The Excepted Service: A Research Profile \(GAO/GGD-97-72, May 1997\)](#).

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Concerns over the constraints imposed by Title 5 have led to proposals such as those already accepted or pending regarding FAA, FBI, DOD, and IRS—proposals that could lead to an even more decentralized civil service. To the extent that agencies such as these gain flexibilities outside of Title 5, Congress will need to know whether, in planning and implementing their new approaches, these agencies continue to adhere to the merit principles and other national goals. However, the proposals for IRS do not make OPM's role in this regard entirely clear. Congress has options of clarifying OPM's role or taking a more direct hand itself in overseeing IRS' new personnel practices.

In closing, the proposals in H.R. 2676 and S. 1174 have been developed to provide IRS exceptions from various Title 5 personnel requirements that IRS believes impede its ability to accomplish its mission. In order to take full advantage of the lessons that implementation will yield, Congress may find it appropriate to incorporate all of the flexibilities into the demonstration authority provisions of the bills. With appropriate evaluative mechanisms included, this would allow for an informed judgment as to whether these flexibilities should be made permanently available to IRS as well as whether they possibly should be extended to other agencies. In addition, the bills' provisions encouraging IRS to align its employees' performance with IRS' mission and goals are consistent with other public- and private-sector organizational trends that have been given congressional endorsement through the passage of the Results Act. However, success in achieving this alignment will require a culture change in IRS driven by a long-term managerial commitment. Finally, the granting of personnel flexibilities to federal agencies raises important issues as to the extent to which, or the mechanisms whereby, Congress or OPM will oversee these agencies to ensure their continued compliance with the merit principles and other national goals that undergird all federal employment.

This concludes my prepared statement, Mr. Chairman. I would be pleased to answer any questions you or other Members of the Committee may have.

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