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CHIEF HUMAN CAPITAL OFFICERS AT 20: WHAT IS NEEDED TO EMPOWER CHCOs TO ENSURE HR PRACTICES SUPPORT AGENCIES' MISSION SUCCESS

HEARING

BEFORE THE

SUBCOMMITTEE ON
GOVERNMENT OPERATIONS AND
BORDER MANAGEMENT

OF THE

COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ONE HUNDRED SEVENTEENTH CONGRESS

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CHIEF HUMAN CAPITAL OFFICERS AT 20: WHAT IS NEEDED TO EMPOWER CHCOs TO ENSURE HR PRACTICES SUPPORT AGENCIES' MISSION SUCCESS

WEDNESDAY, MARCH 2, 2022

U.S. SENATE,
SUBCOMMITTEE ON GOVERNMENT OPERATIONS
AND BORDER MANAGEMENT,
OF THE COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:45 p.m., via Webex and in room 342, Dirksen Senate Office Building, Hon. Kyrsten Sinema, Chairwoman of the Subcommittee, presiding.

Present: Senators Sinema, Carper, Ossoff, Lankford, Johnson, and Hawley.

OPENING STATEMENT OF SENATOR SINEMA[1]

Senator SINEMA. I call today's hearing to order.

I look forward to welcoming Ranking Member Lankford and other Members of the Subcommittee, who are on their way, and I welcome all of our witnesses to today's discussion about the role of the Federal Chief Human Capital Officers (CHCOs). It is kind of a fun name.

A more effective and efficient Federal Government starts with a better Federal workforce. It does not matter how much we spend or how many laws we pass; if we do not have the right people in the right jobs, our Federal Government will not be successful in providing the services that my constituents in Arizona count on every day. CHCOs play a critical role in this effort. They oversee day-to-day workforce management to ensure the right employees are hired, trained, managed, promoted, and retained.

The Chief Human Capital Officer role was created in the Homeland Security Act (HSA) of 2002 to elevate human capital efforts within agencies. After 20 years, it is important to explore what works about the CHCO role, what additional authorities they need to be successful and innovative, what gets in the way of their success, and how Congress can set up CHCOs for success. It is especially critical that Congress tackle the last part. The Government Accountability Office (GAO) has included Federal human capital management on its high-risk list for more than 20 years. Numer-

[1] The prepared statement of Senator Sinema appears in the Appendix on page 33.

ous recent reports have highlighted the immediate need to address Federal workforce innovation. Even the National Commission on Military and Public Service, the brainchild of Senator John McCain of Arizona, spent significant time discussing how to fix Federal human resources regulations and statutes.

Our Committee is starting to make progress. We recently passed my bipartisan Chance to Compete Act, which I partnered with Ranking Member Lankford to pass. That bill makes important improvements to how agencies assess applicants and has strong stakeholder support from manager and employee groups. We also hope to advance Senator Lankford's Trust in Public Service Act soon. Today's hearing will build on that momentum.

The merit system, which is the foundation of our Federal workforce policy, remains the ideal and should never be weakened. However, it is wrong to say that the merit system is the same thing as the existing personnel system. We have a personnel system from the 1940s that uses assessment criteria often from as far back as the 1970s and a hodgepodge of recent piecemeal changes that make the whole system more complex. We need to do better, both for Federal workers and the American people who rely on them.

I want to thank our witnesses for the testimony they have submitted today. You four represent an incredible cross section of experience, and I thank you for taking the time to attend.

I know that Senator Lankford is on his way to the hearing, and so I will have him complete his opening statement when he arrives.

It is the practice of this committee to swear in witnesses, so if you will all please stand and raise your right hand. Do you swear that the testimony you will give before this committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. RIGAS. Yes.

Ms. BAILEY. Yes.

Mr. LENKART. Yes.

Ms. GERTON. Yes.

Senator SINEMA. Thank you. You may be seated.

Now I will introduce each of our witnesses so they may present their opening statements. I ask each of our witnesses to keep their opening statements to 5 minutes, but your full written statements will be submitted for the record.

Our first witness today is the Hon. Mike Rigas. Mr. Rigas was confirmed as the Deputy Director of the Office of Personnel Management (OPM) and then served simultaneously in that role as well as the Acting Director of OPM and the Acting Deputy Director of Management of the Office of Management and Budget (OMB).

Mr. Rigas, thank you for joining us here today. You are now recognized for your opening statement.

TESTIMONY OF THE HONORABLE MICHAEL J. RIGAS,[1] FORMER ACTING DIRECTOR (2020–2021), OFFICE OF PERSONNEL MANAGEMENT

Mr. RIGAS. Thank you, Chairman Sinema, Ranking Member Lankford, and Members of the Committee. Thank you for the opportunity to testify before you today on this important topic.

My name is Michael Rigas, and I served as both the Acting Director of OPM and the Acting Deputy Director for Management at OMB. In those capacities, I had the privilege of serving as both the Chair and the Vice Chair of the CHCO Council.

People are the most important resource of any organization. I have worked in the private sector, the non-profit sector, and in State and Federal Government, and that principle holds true no matter what the organization. The Federal Government has some of the most dedicated public servants Americans could ask for, providing diligent and competent service to the American people every day. But as we are here to discuss, we still fall short as a Federal Government when it comes to attracting and retaining the best and brightest to Federal service and ensuring that poor performance and misconduct are effectively addressed.

From my experience working with the CHCO Council, I can say they are a valuable resource and advisor to the OPM Director. They provide important feedback and suggestions for improvements to personnel policy. While they advise on and implement personnel policy, there are also limits to what they or OPM can do, and here is why.

First, there must be a realization that OPM does not oversee the entire Federal workforce. Congress has created numerous carveouts and exceptions to Title V, placing entire categories of employees and agencies outside the purview of OPM.

Second, because of those exceptions and continued creation of new authorities, the landscape for managing Federal personnel has become overly complex and bureaucratic.

Third, over time, the level of seniority of individuals designated by their agency heads as CHCOs has become less senior. For example, if you look at the composition of the CHCO Council from its first annual report in fiscal year (FY) 2004, you will see the CHCO Council comprised largely of Presidentially appointed, Senate-confirmed officials, such as the Undersecretary for Personnel and Readiness of the Department of Defense (DOD) and Assistant Secretaries for Management and Administration from other cabinet agencies. That is no longer the case.

But, even in the current environment, with all its complexities and limitations, real progress can be made with respect to improving how the Federal Government manages its most important resource, its people. Here are a few examples of recent actions that yielded positive results and can be built upon to continue to improve how we manage personnel and Federal agencies that serve the American people. With the right leadership from Congress, OPM and the White House, substantial progress and reform can continue to be made.

[1] The prepared statement of Mr. Rigas appears in the Appendix on page 42.

In my roles both at OPM and OMB, I oversaw multiple efforts to address the underlying issues inhibiting the Federal workforce from being viewed as a first-in-class employer while advancing Merit Systems Principles and strengthening the State of the Civil Service. When our team came to OPM, we faced the largest background investigation backlog in history, with an inventory of 725,000 cases and timeliness that exceeded a year to receive a top secret clearance. This situation made it difficult for agencies to carry out their missions and recruit qualified employees in a timely manner. Because of the tireless efforts of both our career and non-career leadership, we were able to eliminate the backlog and safely reduce the amount of time it takes to conduct and adjudicate a background investigation.

We also innovated to improve the hiring process, promoting skills-based assessments over applicant self-assessments, demonstrating how to successfully reduce candidate selection time from 45 days to 16 days, while vastly improving the number of qualified candidates to hire. This methodology should be more widely used as hiring efforts which rely on self assessments often yield lists of candidates hiring managers do not deem qualified for the job, resulting in cancellation of a posting, frustrating both candidates and hiring managers.

As Acting Director of OPM, I advocated the expanded use of shared certificates, to make them available governmentwide, which allow qualified candidates who are not hired at one agency to be hired immediately by another agency looking for qualified candidates for that same type of position. This pilot has been in place at the Department of Health and Human Services (HHS) and should be expanded across the government.

Use of skills-based assessments and shared certificates are things CHCOs can do today at their own agencies and would greatly reduce the amount of time to hire, save money for agencies, improve the experience of job applicants, and demonstrate merit systems principles hiring can be effective and efficient.

While at OPM, I also made clear that our mission was to support other agencies and do everything we could to help them execute on their mission. One great example of that was our work with the United States Department of Veterans Affairs (VA) as we responded to the global pandemic. In 2020 alone, the VA was able to hire over 50,000 employees, including doctors, nurses, and front line responders to the pandemic, because of actions we took at OPM to provide VA the flexibilities and authorities it needed to move quickly.

With leadership that is willing to focus on addressing these challenges, there is much that can be done. We know what works, and we have demonstrated how concrete improvements can be achieved for taxpayers, agencies, and Federal employees. I am encouraged by the bipartisan legislation you have sponsored in the Chance to Compete Act, which codifies many of these reforms to improve Federal hiring and personnel practices.

Thank you for the opportunity to testify before you today. I look forward to answering your questions and working with you to strengthen the efforts I was proud to help lead during my time as Chairman of the CHCO Council. Thank you.

Senator SINEMA. Our second witness is Angela Bailey. I would first like to congratulate Angie on her retirement last month after 40 years of service to our country, and I hope that you enjoyed your trip to Sedona last week. It is a wonderful place to reflect and recharge, and you are always welcome back in Arizona. I am sure your former team on the border misses you.

Ms. Bailey testified before this Committee a few months ago in her role as the Department of Homeland Security (DHS) Chief Human Capital Officer, where she was widely credited with bringing order and modernizing DHS's human resources (HR) programs. Before that, Ms. Bailey was the highest ranking civil servant at OPM, leading their Policy Division and serving as the Chief Operating Officer (COO).

Ms. Bailey, thank you for your work and thank you for joining us today. You are recognized for your opening statement.

TESTIMONY OF ANGELA BAILEY,[1] FORMER CHIEF HUMAN CAPITAL OFFICER (2016–2022), U.S. DEPARTMENT OF HOMELAND SECURITY

Ms. BAILEY. Thank you. I must say I love Sedona. It was absolutely beautiful.

Good afternoon, Chairwoman Sinema and Ranking Member Lankford and distinguished Members of the Subcommittee. Thank you for the opportunity to appear here today. I appreciate you inviting me to speak about what is needed to empower CHCOs, to ensure HR practices support agencies.

As you just mentioned, I have recently retired from the Federal Government after a career that spanned 40 years. Almost 35 of those 40 years has been spent in human capital. Over half of my career was spent at the Department of Defense, and in 2007, I was appointed to the Senior Executive Service (SES) at the Office of Personnel Management in several different roles. Then finally, my position in 2016 until I retired at the end of 2021 was as the DHS Chief Human Capital Officer.

But just as important as the positions that I have held in the agencies that I have served is the experience that I have lived over those four decades, witnessing events that have touched the lives of our Federal workforce, myself and my family included. These events, some historic and some that never actually touched the headlines, have shaped so much of who I am, what I think, and how I believe that the CHCOs have the ability to have a positive impact on their agencies' mission.

It is important to understand that there is more to being a CHCO than simply providing human resource policy as the CHCO Act implies. It certainly takes more than the CHCO Council to address all of the issues impacting the Federal workforce and their families. So, yes, not only does the CHCO Act need modernization but so does how we approach the entire ecosystem which the Federal workforce accomplishes—in which the Federal workforce accomplishes their agencies' mission. I have several recommendations that I would like to speak to.

[1] The prepared statement of Ms. Bailey appears in the Appendix on page 47.

One, humans are not capital, and they are not resources. We need to ensure that we start investing in our employees and their families. Investing their mind, their body, and their spirit is not "woo-woo"; it is actually a mission imperative.

Two, timely budgets are critical. Almost every single year, agencies are faced with a continuing resolution (CR). Most drastic of all are shutdowns. If agencies are to deliver all that is expected of them each year, then a budget must be passed and ready to begin on October 1st of each fiscal year.

Three, alternative futures planning is essential. For the most part, agencies struggle to plan for the future. The lack of doing so has a ripple effect across the entire agency, and nowhere is it felt more so than within the human resource needs.

Four, it takes the entire C–Suite. Nothing is accomplished by the CHCO alone. There is an interplay between the Chief Financial Officer (CFO), the Chief Information Officer (CIO), the Chief Acquisition Officer (CAO), the Chief Security Officer (CSO). The list goes on and on. The point is that we cannot underestimate the value that it takes an entire team in order to deliver and pull together to ensure that our agencies' missions are accomplished.

Five, we need simplification and flexibility. There are over 100 different hiring authorities on the books. Some are for specific agencies; some are for across the entire Federal Government. No one can keep up with, manage, or use this many hiring authorities nor are they necessary. Agencies should be able to seek highly qualified applicants from all available sources. The DHS Enhanced Hiring Act proposal is an excellent example of how the simplified hiring process could become available for all agencies to be able to use.

Six, we need to modernize classifications, qualifications, and awards. The Federal classification system is outdated, and it exasperates the pay and compensation disparity. One thing Congress could do is modify Title VI, which is DHS's Cyber Talent Management System (CTMS), to include all agencies and all positions for Civil Service reform to become a reality across the Federal Government.

Seven, is that we have billion-dollar operations and we have this. To put this into perspective, DHS's budget this fiscal year is over $122 billion, it employs close to 250,000 employees, and it has 22 different components and a mind-boggling 90 committees and subcommittees overseeing its operation. Yet, despite all that tremendous responsibility and accountability, we still must go to OPM to get permission to hire one rehired annuitant, to get awards over $10,000, to do Voluntary Early Retirement Authority (VERA)/Voluntary Separation Incentive Payments (VSIP), and a whole host of other things including direct hire authority. There is no business anywhere else in the entire world that would accept this kind of practice or even find this micromanagement sane.

And even more surreal or perplexing is the fact that there is a belief that all of this requires legislation, that those regulations within OPM's purview cannot be changed without congressional support, which leads me to the last point, which is congressional partnership. Everything calls for a strong partnership, collaborative partnership between the subcommittees and other interested

congressional parties, including the unions and veterans servicing organizations and good government groups, if we are going to see any type of change and modernization.

I thank you again for this opportunity to speak with you today. I appreciate your willingness to listen and to entertain the idea of helping us help you make a difference. Thank you.

Senator SINEMA. Thank you. Our third witness is Terry Gerton, the President and Chief Executive Officer (CEO) of the congressionally chartered National Academy of Public Administration (NAPA) and, before that, a career member of the Senior Executive Service. Ms. Gerton is well known for her bipartisan efforts to bring together executives and academics with different political philosophies to discuss good government practices and solutions.

Ms. Gerton, thank you for joining us today. You are recognized for your opening statement.

TESTIMONY OF TERESA W. GERTON,[1] PRESIDENT AND CHIEF EXECUTIVE OFFICER, NATIONAL ACADEMY OF PUBLIC ADMINISTRATION

Ms. GERTON. Chair Sinema, Ranking Member Lankford, and members of the Committee, I appreciate the opportunity to testify today.

I am a fellow of the National Academy of Public Administration and have served as its President since January 2017. In addition to my experience leading the Academy, I spent 3½ years as a Deputy Assistant Secretary in the U.S. Department of Labor (DOL) and 8½ years as a senior executive in the Department of Defense. I have personal experience with the topic of today's hearing.

I have been a hiring manager, a subject matter expert reviewer of applicant files, a member of senior executive hiring interview panels, and a member of the Army Senior Executive Policy Board. While serving as the Executive Deputy to the Commanding General of Army Materiel Command, I was responsible for the strategic management of over 80 senior executives, one third of the Army's total allocation, and the oversight of nearly 70,000 civilians in nearly every career field stationed around the world. I know how challenging it can be to make the Federal personnel processes work.

The National Academy of Public Administration also has deep expertise in Federal human resource management topics. Over 50 of our fellows claim experience in Federal HR, and of those, many themselves were Federal Chief Human Capital Officers. Across our history, many agencies have directly engaged the Academy and our fellows for support in managing and modernizing their own HR systems.

The Academy agrees with GAO in its determination that strategic human capital management is an area of high risk in the Federal Government. In 2019, we identified the need to modernize and reinvigorate the public service as one of 12 grand challenges in public administration, and our work in this area over the past 5 years has been extensive. We delivered last March our congressionally directed assessment of the Office of Personnel Manage-

[1] The prepared statement of Ms. Gerton appears in the Appendix on page 54.

ment, and just last month we provided our assessment of the National Cybersecurity Training System, also at Congress's direction. Our fellows provided an action plan to the Biden administration on administrative steps it could take in its first year to actually modernize and reinvigorate the public service. In 2017 and 2018, we completed two papers outlining a fundamentally new vision for the future of Federal service, No Time to Wait, Parts 1 and 2.

Taken collectively, our research communicates a vision of a federated Civil Service system based on talent management and driven by mission accomplishment and merit systems principles. But we have made little progress in achieving this vision, and the pandemic has only made systemic reform more difficult. Significant spending programs to support national recovery, combined with nationwide reimagining by individual workers of their employment preferences, have created even greater numbers of vacancies across the Federal workforce. The urgent need to hire new employees to manage these new programs, the perpetual shortage of individuals with technical skills in cybersecurity, data analytics, and other Science, Technology, Engineering, and Math (STEM) fields, and the growing attention on developing government programs with a focus on customer experience and expectations have created a perfect storm.

The role of the CHCO is more important now than ever, but we cannot modernize that role and then leave them in the antiquated system we currently have and expect different results. We must undertake a systemic renovation of the entire Federal personnel system, and the Academy's assessment of OPM is the place to start. That study provides a road map of actions needed to raise the attention on, and the value of, human capital for addressing critical workforce issues, by reframing OPM's mission and affording the Agency the foundation required to lead strategic human capital management governmentwide. Within such a system, CHCOs can be empowered to be the strategic personnel leaders within their agencies that the Chief Human Capital Officer's Act envisioned 20 years ago.

The CHCOs I know recognize that the government's effectiveness is the product of its people. They understand the potential impact on the daily functions of government, and they relish their position on the front lines of mission accomplishment. But making this construct real will require commitment and support both from the Administration and Congress. It will also require a concerted effort to improve the capacity of the human resource community governmentwide.

Recruiting, developing, and retaining the right talent should be a priority, nonpartisan concern. Whether you believe government should be smaller or larger, we should all agree that the government needs a highly skilled workforce to serve the American people.

In this case, the Coronavirus Disease 2019 (COVID–19) pandemic may have a silver lining. It has already forced myriad changes in what we believe possible and driven adaptation and distributed work arrangements, technology, and hiring flexibilities. We dare not waste the opportunity that this tragedy has created. There simply is no more time to wait.

Chair Sinema, that concludes my statement. I look forward to your questions.

Senator SINEMA. Thank you. Our final witness is Steve Lenkart. Mr. Lenkart is currently the Executive Director of the National Federation of Federal Employees, the third largest and the oldest Federal labor union. Previously, he served as a career member of the Senior Executive Service, including as the Executive Director of the Merit Systems Protection Board (MSPB).

I would also like to thank Mr. Lenkart for his tireless work on trying to help Federal wildland firefighters. He has worked closely with my staff on this issue that is of vital importance to our nation as fires have become more deadly and our heroes risk their lives to protect us.

Mr. Lenkart, thank you for joining us today. You are recognized for your opening statement.

TESTIMONY OF STEVEN V. LENKART,[1] EXECUTIVE DIRECTOR, NATIONAL FEDERATION OF FEDERAL EMPLOYEES

Mr. LENKART. Thank you, Madam Chair and Ranking Member Lankford. It is a pleasure to see you. Thank you for that warm intro. Your staff has been absolutely fantastic, as you have as well, looking out for our wildland firefighters as they begin another year out in the forest for longer and more dangerous seasons every year.

I am Steve Lenkart. I am the Executive Director of the National Federation of Federal Employees. I am a career member of the Senior Executive Service. During my Federal executive time, I served in leadership positions at the Department of Homeland Security, also worked with the Federal Salary Council, Federal Prevailing Rate Advisory Committee (FPRAC), and also served on the Executive Committee of the Small Agency Council.

But as the Chairman mentioned, I was also Executive Director of the Merit Systems Protection Board. As we all know in this room, that agency is an independent agency responsible for safeguarding a fair, effective, and efficient workforce for 2 million Federal employees.

I am very happy to say that as of last night, with the consent of the Senate, we finally have our nominees passed out and they are ready to get to work over at the MSPB, to start working on a 5-year backlog. They have been without a quorum there for 1,880 days. I wish them luck as they try to chip away at that backlog.

My overarching message today is to preserve the merit system principles codified in law in 5 U.S. Code (USC) 2301. The merit system principles are there to inform policies regarding recruitment, selection, development, and maintaining an efficient and effective workforce. The merit principles are timeless. They were written 30 years ago, 40 years ago. Even though they are based on things that happened in the past, they were actually written for the future, and they were written because of the mistakes that we made over the past 245 years trying to run a government.

Somewhere within the confines of the merit principles is a relationship between OPM and the Chief Human Capital Officers of the Executive Branch. This is a complex relationship with overlap-

[1] The prepared statement of Mr. Lenkart appears in the Appendix on page 63.

ping definitions. They both are facilitators and enforcers of human capital for the government. So we ask ourselves questions: How much leash do you give to CHCOs to administer the workforce under their charge? How much autonomy should a CHCO have to ensure that they are still adhering to the merit systems principles?

There is also structural improvements that we can explore as well, too. A more proactive use of the CHCO Council. We can create a robust OPM Advisory Council consisting of members of the public and private sectors, labor and management, academia, and other groups to bring innovation to HR. I personally am in favor of installing more career reserve leadership at OPM and for CHCOs and Chief Administrative Officers across the government.

There is also policy improvements to explore. I am not a huge fan of direct hire authority although I think it does have its place. I am not a huge fan of the excepted service although I think it does have its place. But I do think that there is a right way and a wrong way to do both of those things, and the wrong way is to do it without protecting merit.

But if we learned nothing else from the last part of the last decade is that we need to get a grip on the mighty river of non-career political appointees across the Executive Branch. Most Americans do not know about the thousands of political appointees that come and go, non-career executives, and Schedule C appointees.

I am not against political appointees. I was one. But these jobs are wildly in violation of anything resembling anything merit-based. It is a type of secret workforce inside the Federal workforce. Some are hired with questionable skills and experience. Some come from fake think tanks that are covers for dark money. The career managers and staff cannot hold them accountable for their performance or for their conduct.

Madam Chair, I never bring a problem without bringing a solution. One solution is to simply allow career managers and executives to supervise political appointees, those that are not confirmed by the Senate. Political appointees serve at the pleasure of a President, but they are subject to the same accountability, transparency, and performance laws that apply to everyone else. If you are worried about career employees blocking appointees' agendas, you should not be because if those agendas are legitimate merit principles will protect those missions, too.

Now very servingly, in the last part of the last decade, again not now, in the last part of the last decade, we saw an unparalleled uptick in dark money investments to move operatives into the government under the cloak of political hiring exemptions. On the way out, these same operatives test-drove a new authority, Schedule F, created by Executive Order (EO), that authorized the permanent hiring of political appointees under an unchecked special classification of employee that is above accountability and transparency. Unless you are wildly corrupt in mind, you will understand how offensive and dangerous this idea is to an open and free democracy.

However, I think these dark forces like what they saw. I think we are going to see a return of Schedule F type tactics in the future. It is all going to be pushing secret agenda on taxpayers' dime.

In conclusion, I thank the Subcommittee for prioritizing the relationship between OPM and CHCOs and starting the conversations

to make OPM and CHCOs the most effective they can be in the interest of a fair, effective, and efficient and honest government. I look forward to working with the Subcommittee on these issues. Thank you.

Senator SINEMA. Thank you. I would like to recognize our Subcommittee Ranking Member, Senator James Lankford, for his opening statement.

OPENING STATEMENT OF SENATOR LANKFORD[1]

Senator LANKFORD. Thank you very much. The four of you, thank you for being here. It is incredibly important to be able to be in this conversation, and I really appreciate you getting this out, getting it on the record, and so we can continue to be able to build on the conversations we have had in past hearings and work toward actual solutions.

The Chairwoman and I have talked about these issues often. We bring these issues up, and we are working toward actually getting to pragmatic solutions. Some of them have even been mentioned today in some of your opening testimony. I appreciate that very much, and we will look forward to ongoing dialog with that.

We are at a critical point. We have quite a few Federal employees that are eligible for retirement. It continues to drag on and on with the hiring and the length of time it takes to hire. The latest numbers that we have is now 92 days to be able to get to a hire. That is actually better than it has been by a few days but still embarrassing for anything that is in the private sector. I have yet to run into a single company that goes to a job fair, interviews someone at the job fair, and says "I will get back to you in 3 months" in the process.

We are at a very difficult spot to be able to get through the hiring time. We have to be able to make some decisive steps to be able to get to the future, and that is going to begin with improving our hiring process. Hopefully, we will begin with some of the conversations we have today.

The best and brightest candidates really are not going to wait 3 months to be able to go through the process. As I have talked to several folks, the folks that work in Federal warehouses and others that have other options for other jobs they could literally start on this afternoon, they are certainly not going to wait 3 months to be able to go through that process.

In 2019, the Commission on National Military and Public Service made recommendations to increase our ability to hire, train, and retain Federal employees. The Commission noted that the Federal human capital policies often focus on short-term fixes which add more complexity to the Federal hiring system, as has already been mentioned today, with over 100 different hiring authorities there.

Whenever we have a hearing on this topic, that always comes up, is the number of hiring authorities. And just about everyone brings up at some point direct hire, expedited hiring, noncompetitive hiring, every time, and to say: We have 100 different authorities. We do not like any of them, or we only use a fraction of those.

[1] The prepared statement of Senator Lankford appears in the Appendix on page 36.

Our hiring system is definitely broken, and it shows every time we get to one of these hearings and someone else asks for another way to be able to get around it. We have to be able to resolve that.

The COVID pandemic I also declare to be the largest pilot program ever done by the Federal Government on innovation and managing people and hiring and basic oversight. We should take the lessons learned from that and start implementing them quickly.

My fear is that after a 2-year, large-scale pilot that we are now going to start studying what we studied during that time period and spend another decade trying to evaluate, and the status quo will just remain. That will be disappointing if that actually occurs.

At this point, we have to be able to resolve some things. Let me lay a couple things on the table that I want to be able to talk about as well.

We have highly qualified spouses of our active duty military, who move with their family every 3 years, often to very remote locations and bases and posts around the country and around the world. They struggle to be able to find employment when they move every 2 or 3 years.

Why not allow those spouses of our active duty military to be able to work in a remote position in any agency they choose to? We have clearly shown that remote work is possible. I do not mean telework where they are expected to be in one day a week. I mean truly remote work where they are never expected to be in unless there is a large-scale conference that they need to be able to attend.

This would also dramatically open up opportunities for highly qualified individuals in rural America that struggle to be able to find good jobs. This would help those in rural America and would help rural America having stable income into some of those communities, where highly qualified individuals could remain in rural America but still be able to work in different jobs in our Federal Government as they are doing remote work.

It would also help folks that are already in the Federal family that may work with DHS and work in remote border stations and that spouse of that individual that is serving our nation would like to have the option to also be able to work in the Federal family.

These are pragmatic issues that we need to be able to learn from the pandemic and to be able to determine how can we actually turn what was really a painful season into new opportunities to be able to reach out to additional, new, highly qualified individuals, to make our government even run more efficiently in the days ahead.

So there will be quite a few different issues that I want to be able to discuss on this, including the relationship with the CHCO Council and OPM, and to figure out who has what in what lane and how do we actually simplify that process. I look forward to the ongoing dialog as we go through this and getting a lot of your testimony on the record for work in future days.

Madam Chairwoman, thank you.

Senator SINEMA. Thanks. We are going to begin the question portion of the hearing. Each Senator who wishes to speak will have 7 minutes for questions. I will start by recognizing myself for 7 minutes.

My first question is for Ms. Bailey. By law, CHCOs are accountable for recruiting, retaining, and managing a nonpartisan and professional workforce. That is the same basic mandate that OPM holds. Congress, in previous administrations, has created entities such as the CHCO Council to improve coordination between OPM and CHCOs, but challenges persist.

We want our human resources departments to be run by experts. What steps should Congress take to ensure that all CHCOs are human capital experts and are apolitical, and what needs to be done differently to allow CHCOs to thrive?

Ms. BAILEY. Thank you, Chairwoman, for your question. I do agree that CHCOs should be apolitical and they should be career.

Senator SINEMA. Go ahead.

Ms. BAILEY. All right. Yes, so I do think that the CHCOs should be career employees and, if not the CHCOs, then at least the Deputy CHCOs. But there needs to be within the CHCO leadership a recognition that career experts should be in those positions.

One of the main reasons is because Federal—as everybody has testified and as this hearing is all about, is that Federal hiring is so incredibly complex and difficult to understand and to be able to implement and to do it within the merit system principles. And so having a very strong background in that, whether you come out of DOD or you come out of the Office of Personnel Management and you go into an agency, I think that that is really an incredible first step.

The second thing I would recommend is that the CHCO Council, to the best of my knowledge, is the only council that is co-chaired by OPM and OMB. It is not actually co-chaired by the very CHCOs who run the agencies. Whereas, the CIO Council, the CFO Council, the Chief Acquisition Council, all of them are actually co-chaired by the very experts in those positions within the agencies. I do think that it would be extremely helpful if the CHCO Council was actually chaired by CHCOs and co-chaired by CHCOs on a rotational kind of basis, with OPM providing support and, of course, OMB providing its support as well.

So those are two basic steps that I think would be extremely helpful for the CHCOs and the Council at large.

Senator SINEMA. Thank you. My next question is for Ms. Gerton. Your testimony discussed the concern from GAO and other researchers that we are actually going backwards in human capital. If the CHCO Act was amended to provide more autonomy and provide CHCOs a larger voice in the development of regulations, would that alone be enough to reverse this backwards slide? Or, are other actions needed, and if so, what are they?

Ms. GERTON. Chair Sinema, thank you for that question. I would refer to our recent report on the OPM assessment. We made some specific recommendations there for the role of CHCOs in policy and regulation development. We certainly agree that they are the subject matter experts and they need to be consulted.

One of the specific recommendations, to Ms. Bailey's point, was that we recommended Congress amend the CHCO Act to specifically create a rotating co-chair for the CHCO Council from the members of the CHCO Council themselves. That will give represen-

tation and attention to the concerns of the CHCOs and create some stability in terms of their representation.

We also recommended that OPM needs to establish a Strategic Planning and Policy Office within the organization, that is, a well-defined policy development process leads to more effective, responsive, and transparent policy development. That will explicitly then include stakeholders, including the CHCO Council, the Small Agency Human Resources Council, and other stakeholders in policy development.

Then again to Ms. Bailey's point, the OPM Director needs to specifically include the CHCO Council and consider them as partners, strategic partners and expert advisors. Rather than simply using them as a communications tool, they need to have the standing that the other Chief Experience Officer (CXO) councils have within their professional fields.

We think those three things together may not completely solve the problem, but they certainly will communicate leadership attention and put the CHCOs back in the center of policy and regulation development.

Senator SINEMA. Thank you. My next question is for Mr. Rigas. Over the years, Congress has heard from CHCOs about challenges communicating with OPM. There are concerns about not allowing feedback on high-profile matters such as the Schedule F initiative at the end of the last administration, but the communications challenge has stretched to smaller items as well. Since OPM can usually override the CHCO Council on policy matters, what changes need to be made to the CHCO Council setup in order to improve the ability of individual CHCOs to be successful?

Mr. RIGAS. Thank you, Chairman. At least during my tenure, I was not aware of any communication challenges with the CHCO Council. In fact, the CHCO Council interacted more with OPM during my tenure probably than any other OPM Director in the history of the Agency. And that was largely because we were having weekly and biweekly calls with the CHCO Council to navigate our way through the pandemic, to make sure agencies had the flexibilities and authorities they needed and that we could answer some basic and some fundamental questions about what it was they could do as we were going through uncharted territory with respect to the pandemic.

I totally agree; I think communication is very important. One of the roles that the CHCO Council is there to establish is to provide cross-cutting feedback to the OPM Director on issues that are affecting the various agencies that the CHCOs represent, who have missions and workforces that are as broad and diverse as the country they serve. I think we need more communication, and I certainly did not, I think, suffer from a lack of communication from the CHCOs when I was Chair. Thank you.

Senator SINEMA. Thanks. A follow-up: Were there times when you did not take recommendations or seek feedback from the CHCO Council when it came to key OPM decisions, like Schedule F, that had widespread impact on the workforce? Looking back, do you think there is anything that should have, or could have, been done differently?

Mr. RIGAS. We were communicating with the CHCO Council on a weekly and biweekly basis, like twice a week when I say biweekly, not every 2 weeks. There were regularly scheduled, I believe, quarterly meetings, the formal ones that are noticed in the Federal Register for the CHCO Council, when I was there.

Schedule F was an Executive Order. I think that was apparent to everyone, that that was something that had to be implemented, but it was implemented through the career CHCOs. They were tasked with identifying position descriptions for policymaking individuals. That was actually really a career-led effort across the Executive Branch.

Senator SINEMA. Thank you. My time is expired, so I recognize Senator Lankford for his questions.

Senator LANKFORD. I will try to get my questions down to less than 25 minutes, and then we will see where we can go from there. Let me open this up for some dialog here as well, and I appreciate all your input and what you have written in this.

Ms. Bailey, I hope you publish what you put out at some point because your biography that you have at the beginning of your written testimony, of kind of walking through that journey, is very insightful, to be able to go through all that.

But I would like to throw a question on the table and have us interact on this. This seems like a tremendous amount of bureaucracy to be able to manage people and if I can go back to Ms. Bailey's conversation on her saying this is a multi billion-dollar organization. You are coordinating human capital for 200,000 people. Yet, you have people above you trying to instruct you on how to be able to do your job.

You made the comment, saying, "I have got this." I would define it better of "If you do not trust me, do not hire me." What it really feels like at this point much of what OPM's job seems to be is "I do not trust the people under me, and so I am going to micromanage them."

The CHCO Council is trying to be able to swap ideas and to be able to figure out who is doing a better idea, who has figured out how to get around one of these 100 hiring authorities and figure out how to be able to make it work, who has figured out how to be able to manage people remotely and in telework and other things. OPM's main job seems to be that they say, "No. We are going to think about this, and we will get back to you in a year or two."

There is a lot of interplay that is happening here, a lot of conversation and dialog. What I am trying to figure out is where is there redundancy and there could be authority put down to be able to make decisions. We do not need 104 hiring authorities. We do not need 105. We need to figure out how to be able to hire, have a specific set of requirements on that and oversight for individuals that are not doing it well, that are not hitting their targets on it.

How do we deal with this balance between OPM and the CHCOs? I would love to throw some things on the table and actually get out there what you really want to say. Can we do that?

Ms. BAILEY. Absolutely.

Senator LANKFORD. Ms. Bailey, can I have you start first since you kind of opened this conversation with "We have got this"?

Ms. BAILEY. Yes. Thank you, Senator Lankford. I think one of the bottom lines is that so many of our laws and rules and regulations and everything are actually written, quite frankly, for the 3 percent of the workforce or the 3 percent really of society that are not going to follow them anyhow. What we have done is we have built an entire system based on distrust. Everything is about whether or not we think an agency is going to do something nefarious.

I think for OPM—and I was there for 7 years, and I loved my colleagues. They are incredibly bright. They are incredibly talented, and they know what they are doing. But their customer is Title V. It is not the agencies. It is to protect Title V at all cost. When you are protecting a law and you are not actually dealing with the realism or the practicality of what an agency is actually trying to struggle do to, there is going to, I think, be just a situation where we are banging heads with each other.

Every single day as a CHCO—and, yes, over my 40 years and in particular as a DHS CHCO, every single day was about hiring high-quality individuals.

I do not think we need 100 hiring authorities. I have always argued we need two. One, we need one that I think protects or at least gives veterans, our veterans, an opportunity to get employment within the Federal Government in recognition of their service to the United States. That is No. 1.

No. 2, we need a hiring authority for all others, and it should be from all sources. There is nothing in the law that says that we have to use USAJOBS. That is done through a regulation that was passed many moons ago, and it is incredibly outdated. When we go to a hiring event, I should be able to have the ability to have a conversation with someone, be able to collect their resume, have that conversation, match them up to what skills or what positions I have, and then be able to offer them a position. Those are the kinds of things.

Now, I think your Chance to Compete Act that Chairwoman Sinema has put in place, or is working to get passed, is actually something that would be beneficial to us because in that regard we would be able to at least have really good assessments to be able to get those high-quality folks.

We can actually hire people within one day. I have proven that in DHS. We had a cybersecurity hiring event. We made job offers in one day. It is possible to do this, but it takes having subject matter experts involved. It takes having the ability to use the right appointing authorities and making sure that HR and the managers work together to accomplish that.

But again, I hope I am answering your question.

Senator LANKFORD. You are.

Ms. BAILEY. I will yield here, so others have an opportunity.

Senator LANKFORD. Let me ask, Mr. Rigas, what is the problem with that? Why do we get this interplay back and forth between OPM and the CHCOs? They have personal good relationships, but there seems to be overlapping responsibilities.

Mr. RIGAS. Yes, I completely agree with almost everything Angie said there.

One of the things that when they say they have to come to OPM for a mother-may-I, like we want permission to do a VERA/VISP to offer bonuses for folks to retire early or approving bonuses for employees over $10,000, those are in statute, required by agencies to go to the OPM Director for approval. I remember signing off on these, saying, what do I know about this employee at U.S. Department of Agriculture (USDA) that I am approving a bonus over $10,000? Nothing, other than the glowing write-up about what they did and they achieved. That is something that Congress should look at and put back into the purview——

Senator LANKFORD. How do we get that list? How do we get the list of all those things? This goes back to if I go to DOD and they say: Is anyone reading these reports? We send you 5,000 reports. Does anyone read all these?

Mr. RIGAS. Yes.

Senator LANKFORD. We have this monster staff, that that is all they do, these reports, and we do not think anyone reads it.

How do we get the list of those items? Because in all likelihood most of those pieces of legislation were someone did something dumb, to go back to Ms. Bailey's comment, at some point.

Mr. RIGAS. Yes.

Senator LANKFORD. It made the news, and Congress passed something and said this is never going to happen again.

Mr. RIGAS. Right. It is literally right in Title V. The $10,000 bonus is right in Title V. The VERA/VISP is in Title V.

I think Congress is correct in wanting some kind of check or watchdog to make sure that there are not abuses when these things happen. But that could also be done by the agency's own Inspector General (IG), can take a look at these items rather than going to OPM.

Senator LANKFORD. OK. Thank you. Ms. Gerton, do you have anything you want to add to that?

Ms. GERTON. Yes, sir. Thank you. A couple of recommendations that we have made in the OPM assessment: One is that OPM really needs to be refocused beyond Title V. If you think about the CHCOs as their Strategic Human Capital Officer within agencies, you want OPM to be the President's Strategic Human Capital Advisor.

We need to refocus it so that we have a comprehensive but strategic organization there at the center of human capital so that they are thinking about data analytics, they are thinking about lessons learned, they are thinking about training, they are thinking about the future, but that the actual responsibilities to manage the HR community and the workforce in those agencies is delegated to the experts in that agency. First, we actually do make a recommendation in that report about the specific revision to authorities for OPM in Title V.

The second thing I would say is that in association with that reframing so that OPM becomes a more strategic organization, we need to take them out of the compliance mode, which again, as Mr. Rigas has said, many of those are articulated in law, and put them into the modern form of risk management so that where the data shows that there is opportunity or risks OPM can take a strategic focus there but they can leave the majority of compliance to the

executing agencies. That empowers the CHCOs to do what they need to do within the framework that is established and moves OPM into that strategic management role for the entire Federal workforce so that CHCOs can do what they are already empowered and able to do but in a system that actually matches those authorities.

Senator LANKFORD. OPM moves from a compliance organization and mother-may-I, to use your term on that as well, to more of a conversation from the Executive Branch, to say: We have 45 percent of all Federal employees suddenly eligible for retirement. What are we doing about this? How are we helping protect the Federal workforce in the days ahead and then trying to initiate initiatives to be able to help offset that? Correct?

Ms. GERTON. Exactly. Right now, OPM cannot even see that data because it is not integrated across the enterprise.

Senator LANKFORD. OK. Thank you, Madam Chairwoman.

Senator SINEMA. Thank you. I am going to start a second round of questions and then—if you are interested, we will do a second round. Great. Wonderful.

I am going to turn to Mr. Lenkart. Your union, the National Federation of Federal Employees, represents many of the wildland firefighter heroes at both Departments of Interior and Agriculture. The Union has partnered with the agencies to try to make firefighting safer and pay an appropriate and fair salary.

As Congress is currently reviewing several different proposed bills, including one from Senator Carper called the Tim Hart Act, it appears much can be resolved within existing laws. If CHCOs had more authority to make changes within existing laws, what would be the day-to-day impact on firefighters in my State of Arizona and across the Nation, and what would be the downside, if any, of more CHCO authority?

Mr. LENKART. Thank you, Madam Chair. Yes, there is a disconnect. As there is between OPM and CHCO, there is also a disconnect between CHCO and some of the workforce that they represent.

The first part of that answer I think is between OPM and CHCOs. Allowing them to move ahead with some of the things they know are within the law and within you know, supported by merit principles. They can go ahead and—I think they need a flexibility to go ahead and do some things. OPM can always audit. The MSPB can always review actions and make corrections if necessary. Congress can always appropriate or authorize. There is a chance that you could service those wildland firefighters quicker and better and also answering things like, market pay and so forth, the things that we are struggling with the keep firefighters within the Federal service without losing them to State and local fire services.

There is also the relationship. The second part is the relationship between the CHCO and the agencies. A lot of firefighters that I talk to do not believe that the CHCOs in their agencies actually have a full understanding of their needs, what the day-to-day job is like, problems with certifications, the burden, the financial burden. Sometimes they pay for certification training out of pocket because training money does not filter down.

Part of this I think is also taking the CHCOs' staff out of their offices and then putting them out in the field with employees. I think that would be, first of all, fun for CHCO staff to get out and experience some of the real world. Stick them with a fire crew in a forest for a couple weeks. Stick them with a VA nurse and make some rounds on a floor. Have them sit on the border.

There is a myriad of things that the government does that they can participate in to better understand the needs of those jobs very specifically. While they are there talking to people, they can also take notes on what that workforce specifically needs. They can take that back to the CHCO of that agency, and likewise, the CHCO can take it back to OPM if that is necessary.

Some of the cons of that is, the further we get away from a centralized authority there is always the possibility that managers or political appointees can push a CHCO in a direction they do not want to go, whether it is illegal or it is unethical or it is pushing the edges of the law, that the CHCO is not prepared to do or comfortable with. So that has to be carefully observed and corrected, and those CHCOs need the support if the answer is no to somebody much more powerful than them. They need to be able to have that ability to say no and know that they are not going to get fired or demoted or transferred somewhere in the middle of nowhere as punishment.

The final thought is as we decentralize some efforts which I think we can certainly do. We have to be mindful of about fair pay and equal pay across government. We cannot lose sight again of those merit principles I keep talking about. Those merit principles are not there to be obstructionist. They are there to remind us that we do have responsibilities greater than us as we are dealing with taxpayers' money, not private money, not shareholder money. We accelerated the level of responsibility, what we do with those funds and those authorities.

Senator SINEMA. Thank you. My next question is for Ms. Gerton. Human resources specialists are often overworked, receive less training, and have fewer standards than in contracting and technology positions. How would you recommend that Congress strengthen HR specialist skills and abilities, and do you think OPM should set more ongoing certification and testing akin to the requirements for contracting officers?

Ms. GERTON. One of the things we have consistently heard in our work around the personnel system is that the HR specialists are not prepared to do the work that we propose in a reimagined HR system. I certainly think that a more strategically focused OPM should be the proponent for the workforce and training development for the HR staff.

OPM has been working on a human capital competency model for years. We certainly think that they should finish that up, but you do not want to describe a competency model for the system that you hope will be reengineered. We want to reengineer that system and describe the kinds of HR competencies that we want the workforce to have for a system that will work for the future.

But once that is done, we absolutely agree that there should be a certificate and credentialing program for the HR staff, that OPM needs to coordinate with agencies to identify those skills and com-

petencies that are needed, to understand how agencies are already training for those skills and competencies, and which of those programs might be able to be credentialed as part of that professional development program, and create both a development program and a progression program that ensures that our HR specialists have the problem solving and management skills to really be partners with hiring managers, again taking them out of the compliance mode and really helping them solve the problems of the hiring manager and making sure that they get the right people into the right jobs.

Senator SINEMA. Thank you. Mr. Lenkart, based on your experience with the Merit System Protection Board, what can be done to prevent Schedule F or a similar action that would fundamentally undermine the independence of the workforce, and is there any role for CHCOs in that effort?

Mr. LENKART. There is, Madam Chair. Concerning the Schedule F itself, it was just a ridiculous Executive Order with no legitimate business purpose. Why you would consent to hiring somebody through a special process under the cloak of secrecy—they do not report to anybody. There is no accountability. There is no transparency. There is no duty to report performance.

I mean, private business does not even do that. I cannot imagine a CEO hiring, "Yes. I am going to hire 10 people that are going to mill about around the office. They are not going to do anything or report to anybody." That guy would be fired in a heartbeat.

When we are talking about the level of scrutiny and, again, the trust that the public places in us, I do not think we should be hiring people with a license to do whatever they want and wander around the government and look for things to do, especially if they are doing it at the behest of somebody else outside of government and they are doing it on the taxpayers' dime. The whole thing, from beginning to end, does not have any legitimate business purpose as far as I am concerned.

Some of the things that we can do to prevent that from ever happening again is we can, first of all, as I mentioned before in my opening, we can have career executives and career managers supervise political appointees just like they supervise anybody else. There is absolutely nothing wrong with somebody who comes in at a policy level to report to somebody who has been here for a very long time.

In addition to that, there needs to be some kind of requirements. I understand that political appointees are direct hires and it is a lot of wink-and-nod stuff. Now, I do want to clarify; a lot of political appointees—again, I was one—are very good at what they do. They serve a very good purpose, and having them not completely connected to a bureaucratic process is helpful if you want to get some things done. But it is really an extreme position of trust, and that can be violated very easily. I do not know if the good outweighs the bad.

But in terms of political appointees, I have seen some really bad appointees come in. I mean people who were office assistants and then for political reasons are suddenly general schedule (GS)–14s and GS–15s, making 100 extra thousand dollars a year that they have never earned before, and this is a true story.

You go around the government, and you can ask anybody, is there consistency in political appointees with how they work, how they operate, who they report to, what are they doing here. I mean, I would be shocked if anyone tells you from the career side that, yes, no, they have their act together and everything is fine. Everyone is going to tell you that, they come in all shapes, sizes, and forms.

We have to do something to regulate or at least some kind of determination on experience and skills when the political appointees come in the door if there is not going to be any other process to regulate at what level they come in, where they work, and what they do.

I think we can do better with reporting conflicts of interest. We can do better with reporting if someone gets a big bonus on the way out from the industry and now they are coming in as a watchdog and they got three times their annual salary and now they are going to be a watchdog over this industry for the next 3 years. You know, that is trouble there.

I think that we can also do a little bit better on removal processes for appointees when they are accused of bad conduct or a repetitive bad performance. There has to be an entity other than a purely political one that can remove them.

I think that is where CHCOs can come in and help quite a bit, in all these areas, and make sure that these things are regulated and adhered to.

Senator SINEMA. Thank you. I would now like to recognize Senator Carper for his 7 minutes of questions.

Senator Carper.

OPENING STATEMENT OF SENATOR CARPER

Senator CARPER. Thank you so much. My thanks to you and Senator Lankford for hosting this hearing, calling this hearing, and for inviting our witnesses. This is something that I care about a lot.

My guess is, Chair, you and our other colleagues have vibrant constituent services operations in your offices. We have them in Delaware. We only have three counties, but we have offices in all three counties. We have constituent services people in all three counties and very proud of the work that we do.

We actually do a survey on a regular basis, on a monthly basis, to see how we are doing with respect to serving people and when they call on a particular issue. We ask for feedback on how our Federal agencies are doing in terms of responding to concerns of constituents.

As it turns out, for the last 21 years we have been doing this, my offices up and down the State, all taken together, they are evaluating these monthly surveys: 96 percent excellent or good in terms of feedback from the people we serve, about 3 percent fair, and 1 percent poor. The ones that are fair gave us a fair evaluation when we called them.

In the same surveys, we asked people to evaluate the service that they are receiving from Federal agencies, and one of those Federal agencies that we get a lot of feedback on—you probably do, too, Madam Chair—is the Internal Revenue Service (IRS), which we underfund. We unduly have too few people working there. We

do not have people necessarily with the right skills. It is something that repeats itself. I do not care what administration. Some of our colleagues on the other side of the aisle especially are, I think, more interested maybe in starving the IRS than making sure that they have the kind of resources they need.

But with that sort of as a background, the Federal Government is here—I think we are here—to serve people, serve the American people. Now, there is a wide range of ways we can do that sort of service.

The Chief Human Capital Officers serve in one of the most critical roles in our Federal agencies. They are the experts who oversee the hiring and retention policies for the agencies. Their work directly impacts how well the IRS or the Social Security Administration (SSA), which are two agencies that get a lot of attention from constituents who contact us because they are not getting the service they want or need from either the IRS, or in many cases Social Security. But the work of these folks at these agencies can serve everyday Americans who need their tax refunds in some cases or a disability payment.

My first question is—and this is for Ms. Bailey. You have a unique perspective as you have worked both at the Office of Personnel Management in various roles and you have worked as a Chief Human Capital Officer at the Department of Homeland Security. What can the Congress do now, like right now, what can we do to ensure Chief Human Capital Officers have the authority and the tools that they need to address workforce shortages in the Federal Government? Please go ahead, Ms. Bailey.

Ms. BAILEY. Thank you, Senator Carper. I appreciate your question. One of the first things we could do—and actually, Madam Chairwoman asked this question as well, which is, where are all of the authorities and things that you could do to make changes?

The CHCO Council in the last 6 years, but primarily the last 4 years, we actually created an entire list of every single authority which we believe should be delegated to the CHCOs as well as the specific language that we think needs to be changed within Title V. We not only provided that list to the Office of Personnel Management; we actually wrote the legislation to go with it. I am sure that the CHCO Council—I am not there anymore, but I am sure Traci DiMartini and a few of the others would be more than happy to share with you all of the work that was done.

Senator Carper, I really think that the number one place to start is to have a meeting with the CHCO Council, have them pull out the list of every single thing that they have asked to have done, ask them to provide you with the legislation that they wrote and provided to OPM, and see if there is a way to have middle ground between yourselves and the CHCO Council in coming up with changes that are absolutely necessary.

Senator CARPER. That is a very helpful answer. Thank you for that.

Ms. Gerton, the National Academy of Public Administration recommended that to modernize and to reinvigorate public service, something necessary to ensure Federal agencies can better serve our customers is—I always think of the American public as our customers. But agencies need more flexibilities to tailor their meth-

ods to meet their needs, and the Office of Personnel Management needs to evolve from compliance-oriented to customer-focused. I always like to say, ask your customer, whoever the customer might be.

But this is a big task and one that has been studied and studied and discussed for years. Where does the Congress begin? That was for Ms. Gerton.

Ms. GERTON. It is a great question, Senator Carper, and finding the starting point is always the key to solutions. So we first suggest that Congress consider restating the purpose of OPM to make it a strategic governmentwide advisor to the President. But, more importantly, not only in the OPM assessment, but I would refer us to our No Time to Wait study, where we said the key measure of HR success is agency mission accomplishment.

To your point about the difficulties that the IRS and the Social Security agency are having serving their constituents, we have to agree on what the mission is. If the mission for those agencies is customer service and customer satisfaction, then collectively we need to make sure that we staff and resource those agencies to accomplish that mission.

So making OPM a strategic advisor for the entire Federal Civil Service, delegating to the CHCOs in the agencies in a federated model the responsibilities that they need to make sure that their agencies have the workforce necessary to accomplish their mission, and then as Mr. Lenkart has said in his comments, making sure that all of those authorities and flexibilities are bounded by compliance with merit systems principles is our fundamental recommendation for change.

Senator CARPER. All right. Thank you. One last quick question, Mr. Lenkart. When I was privileged to chair this Committee a number of years ago, we were having actually very similar conversations around Federal workforce reform. Since then, there has been some changes but not enough. Everyday Americans still run into obstacles when interacting with agencies, and these obstacles are in part the result of workforce shortages.

A question would be: How can Congress further improve its communication with Federal agencies and unions to build stakeholder consensus, so we can finally implement broader reforms in hiring and retention of the Federal workforce rather than just talk about them? That is to Mr. Lenkart, please.

Mr. LENKART. Thank you, Senator. It is a fantastic question and one that certainly is not an easy one to answer. We do silo in government, as all private business siloes. Everyone siloes. It is our natural tendency as human beings, to surround ourselves and deal with the world from that perspective.

But we definitely need more interaction between Congress, between government agencies and stakeholders that are out there. The unions are only one part of that. There is a ton of affinity groups out there that deal with all matter of Federal employee interests. There are groups that watch over pay and benefits. There are groups that are there for advancements and opportunities and so forth. All of them have a seat at the table at some level.

For someone who has had strong and deep relationships with Congress, both Republicans and Democrats, and both Republican

and Democrat White Houses over the past 20 years, I am very comfortable in my own skin up here and speaking with all of you. But to the average employee, and to the average citizen for that matter, it is a very intimidating thing to come up here and talk with all of you, to talk to somebody from the White House, to talk with anybody from Congress. I think taking some of the mystery out of those relationships would certainly help, by just pulling people together more often. Whether that means that we are physically all in one room together several times a year or quarterly, I think that is something to investigate.

I think between the Congress and the Executive Branch I would love to see more congressional staffers spend time in the Executive Branch, much like I would like to see CHCO staff spend more time with the people they administer in their workforce. I would love to see more congressional people come over and hang out in the Executive Branch in different areas and go out in the field and do things. Now there is no better way to understand the people that you are responsible for than to actually witness them firsthand.

I think there is a lot of work we can do in that respect, bringing people together, taking a little bit of the mystery out of the process, a little bit of the intimidation away. And through that, I think we will have much better conversations and find better solutions.

Senator CARPER. All right. Thank you so much. Thanks, Mr. Lenkart.

Senator SINEMA. Thank you, Senator Carper.

I move back to Senator Lankford for his second round of questions.

Senator LANKFORD. Thank you. Mr. Lenkart, let me continue this conversation I started earlier on remote work, just from your own perspective here. I know there are multiple members of the Federal unions that a remote working or they telework. What is your initial concern on a higher number, or a higher percentage I guess I should say, of Federal workers, not necessarily increase the number of Federal workers but a higher percentage of those Federal workers that are doing work literally all over the country, military spouses, spouses of people that have other Federal jobs that are in this Federal family working in a remote area, people that work in very—or that live in very remote areas, in rural areas, having access? Do you have any concerns on that from the union side?

Mr. LENKART. No concerns. It is an excellent question, and I think the idea of remote work opens up a world of possibilities. It solves a lot of our problems with hiring in terms of people having to move to a certain location to do a job that they could do somewhere else. I think it is absolutely the gold standard for a lot of our military spouses that keep moving around with their spouses. They get deployed in different places, even overseas. You can absolutely log on from overseas and continue working and doing your job in some number of Federal agencies.

Senator LANKFORD. Good.

Mr. LENKART. I think it is an excellent—that is an excellent perspective to have, and I think we have a lot to work on doing that.

Now the good news is with COVID. If anything good came out of COVID, the one thing is we were forced to learn how to remote work——

Senator LANKFORD. Right.

Mr. LENKART [continuing]. We were forced to learn how to telework. No way would we have gotten this far or had this kind of data and interaction if we were not forced to do this.

We are at a place right now where I think that we are much more accepting of the idea of a remote workforce, the benefits of it, in terms of managing and, ensuring performance and so forth. I think it is a huge opportunity for the Federal Government to open up hiring to a lot of people that ordinarily would not be able to hold these jobs.

Senator LANKFORD. Yes, I would agree.

Ms. Bailey, how does this actually get implemented? What legislative authority is needed, or do right now agencies and CHCOs right now have the ability to be able to start listing jobs as an assumed remote work?

Or, I guess it could be listed either way. It could be either someone that is hired in to be able to come into work in the agency, or they could be actually full-time remote and really give them either option on that. Is there any barrier right now legislatively to doing that?

Ms. BAILEY. There is not a single barrier. We have always had the ability to offer remote work. It is all based on where the duty location. Wherever you want to define a duty location, that is where it will be. If it is someone's home, if it is working out of the YMCA, if it is working in a military installation or at a border patrol station, anywhere you identify that being the duty location is where the person can work. There has never been a barrier to remote work.

Senator LANKFORD. All right, so two big issues then. One is supervision, and the other one is culture because some people are going to say I need to see all of the chicks in my nest every single day to know that I can lay eyes on them or I cannot manage them, others are going to say you never see them anyway. What is the difference here on it?

Let us talk about culture, and let us talk about supervision on that. What are the two barriers that we have?

Ms. BAILEY. All right. So both of those are—I would say culture is probably the biggest barrier. It is this belief that just what you just said. Right? That everyone has to be sitting all around me.

But what I used to say to my supervisors or my executives all the time is you do not know what people are doing today anyhow. Right? Because you are not leaving your office.

Even take myself as the CHCO. I had 350 employees who worked for me. I had to trust that they were doing their job, whether they were in the office, whether they were across the country, whether they were at the beach. I had to trust that they were actually getting the job done. It is about results. It is about holding people accountable and making sure that you stay in constant touch with them.

When you are in these kinds of environments, what you really need to do is concentrate on, again, the accountability, making sure that we get results from folks, and if not, take appropriate action for their inability either that they cannot do the job or they will not do the job.

The second thing is that you should have opportunities for people to come together, whether it is to celebrate, to collaborate, to create. There is always going to be opportunities in which you should bring people together because human connection is still important. Right?

Senator LANKFORD. Right.

Ms. BAILEY. And so that is the one thing.

From a supervisory standpoint, it is no different honestly than if they are across the hall because half the time you have no idea where they are or what they are doing anyhow because, again, most of the time you are not leaving your office.

The second thing is, though, that you talked about is culture. You cannot legislate culture, just like you cannot legislate good management practices. Right?

Senator LANKFORD. Right.

Ms. BAILEY. One of the things that we really have to do—I do believe that the pandemic has helped us at least understand from a culture standpoint. But I will tell you from a DHS standpoint, when I was there I had to also think about the fact that I have employees who are also still on the front lines. Right? I could not be so D.C.-centric, office centric, and only think about remote work without thinking about what it is like for the man or women who is on an all-terrain vehicle (ATV) or a horse or, doing any of the other things that our folks, our men and women, had to do.

And so it is being able to like, I think, wrap your arms around all this and culturally drive for excellence, culturally drive for hiring high-quality employees, culturally drive for engaging with them and starting from a basis of trust. Again, that cannot be legislated. It is a leadership issue. It begins with leadership setting that kind of culture and that kind of environment and then absolutely driving that, not just from the top-down but from the bottom-up. It takes everybody if you are going to actually, I think, really be able to have this kind of environment that you are seeking.

Senator LANKFORD. Yes. Mr. Rigas, one of the things that I hear often from different agencies and different CHCOs is they want a good list of highly qualified individuals to be able to choose from. I hear it all the time, to say: OPM provided XYZ or whoever it is provided XYZ list. I look at the list. I look at the opportunities. I do not have highly qualified individuals here. Where do I go get more?

This is a way to be able to say: There is 300 million-plus Americans here. You could literally hire for this job from anywhere in the country. You got to be able to list it, advertise it, engage with it. You have to be able to have the ability to be able to actually hire people on a timely basis to be able to do it, but they could be from anywhere.

What are the barriers to this that you see with OPM, and how do we move into let us hire more highly qualified individuals regardless of where they are in the country?

Mr. RIGAS. Yes, I think so. Some of the initiatives we pioneered when I was Acting Director was moving more toward skill-based assessments rather than candidate self-assessments.

Senator LANKFORD. Right. Where I get to check the box and say, yes, I am very qualified.

Mr. RIGAS. Right.

Senator LANKFORD. OK.

Mr. RIGAS. What happens there is because embedded in our merit systems principles is veterans preference everyone who checks off that they are most qualified, including veterans, you end up with a cert which has veterans as the top three individuals, and people say, "Well, all I get are unqualified veterans. We need to get rid of veterans preference." That is completely wrong.

What is wrong is you have everyone self-selecting themselves as highly qualified. What you need are skills based assessments. In that environment you will get and as I demonstrated in my opening statement—very highly qualified candidates and oftentimes more qualified candidates than you have positions for which you can hire at your agency, which brings my second point in, which is shared certificates. You can take that shared certificate and say, "Hey, I got eight qualified candidates for this position. I only needed two. Does DHS or another agency need this HR specialist or an information technology (IT) specialist that we have already determined is highly qualified?" They could then hire off of that cert, drastically reducing hiring time for the Federal Government.

Senator LANKFORD. Right. But we are back to Ms. Gerton's statement earlier that that is a shift and a focus for OPM to say I am a facilitator to these individuals that are actually doing it rather than a permission, compliance-based group. You are really trying to facilitate that.

Ms. Bailey mentioned earlier there is really just two hiring authorities that are needed, one for veterans and one for everybody else. What is wrong with that?

Mr. RIGAS. Yes, I have not seen that proposal. I think we certainly need to reduce the number of hiring authorities. The shared certification initiative I mentioned, HHS is already doing that within the many agencies under their umbrella. It does not require permission from OPM to do that. Other agencies can do that, CHCO-led at their agencies, on their own, right now today.

That was something I was pushing for at OPM in 2020—we ran out of time—to make it a governmentwide initiative so that when you apply for something on USAJOBS you can either click a box, either opt in or maybe we could make it that you have to opt out if you do not want it shared, but that you are immediately—if you are deemed qualified for this job, you are hired—and if you are not hired, that any other agency in the Federal Government would then be able to hire you.

Senator LANKFORD. Madam Chairwoman, can I ask a couple more questions?

Senator SINEMA. Yes.

Senator LANKFORD. So, shorter resumes. Opportunities to not have the long written statement for certain levels that you have this basically fake paragraph or fake piece that someone else actually you hired wrote for you to be able to then turn in, which has become common in the process. The self-certification. What we are trying to figure out is how do we cleanup this whole hiring process or to be able to say if they are listed in some other platform, as some other job platform or search platform out there, that also they could be then picked up by the Federal Government as well based

on the resume they have there and the skill set be able to fit. What is wrong with any of those?

Mr. RIGAS. Yes, I think that all of the above approaches is exactly what we need. You need short, clear job descriptions which are easy to understand. You need to have the HR folks working in conjunction with subject matter experts who can then the hiring managers are ultimately the ones who determine whether an individual is qualified or not. So that interaction needs to happen early in the process so that the job posting that the hiring manager wants, and the HR specialists are working together to ensure that the assessment correctly reflects what is needed in the job. Then you can have either interviews or writing samples or one final step to ensure that you have the most qualified individuals, and you can move right to hiring.

Senator LANKFORD. Yes, as long as their writing sample is actually that person writing.

Mr. RIGAS. Right.

Senator LANKFORD. Right now, we assume quite a few of the writing samples are actually someone else writing it.

Mr. RIGAS. Right. Yes. So if you have a multistep process, that mitigates against any one of those sort of being faulty.

Senator LANKFORD. What about the opportunity if they have their resume listed on LinkedIn and it matches what somebody is looking for at DHS, that DHS is able to go pursue them and say, hey, this matches up?

Mr. RIGAS. You could certainly do that, but you also have to be careful with the merit systems principles. You have to make sure that a position is publically announced and——

Senator LANKFORD. Oh, I get it. It is publically announced that it is out there, but if their qualifications match what has actually been listed, those folks are not being—they are being pursued by private companies. They are just not being pursued by the Federal Government. They may have never considered working in IT in the Federal Government but would be very interested in that if only they heard about it, but they have never considered it.

Mr. RIGAS. Yes, I think——

Senator LANKFORD. Again, if you are in rural Oklahoma, you have not met someone who has worked for the Federal Government before. You have never considered that until suddenly it pings up and says, I have the qualifications to do this. And they think, I am going to consider something I have never considered before.

Now we are actually recruiting into areas where people would do remote work or possibly even relocate to be able to do it, but the authorities have to be there for the agencies to actually go pursue people——

Mr. RIGAS. Yes.

Senator LANKFORD [continuing]. Then to be able to get them in the process.

Mr. RIGAS. Yes, no, I think that would be totally fine. You get to reach out to them and invite them to apply, absolutely.

Senator LANKFORD. Right.

Mr. RIGAS. Yes.

Senator LANKFORD. But it has to take less than 90 days to go through the process.

Mr. RIGAS. Yes, absolutely.

Senator LANKFORD. Or 92 and a half, as it is currently.

Mr. RIGAS. You ought to be able to hire someone and get them in a seat in under 30 days. I think that is possible, and I think it can be done if we do the right thing.

Senator LANKFORD. Ms. Bailey has hired people in one day before.

Mr. RIGAS. Right.

Senator LANKFORD. It is doable. Any other comments on this? I know I have gone way over on time, but I want to be able to make sure we get as much as we can on the record.

Ms. BAILEY. Senator, if I can just mention one other thing. DHS's Title VI, which I wish—I do not know if Senator Carper is still on, but I do want to thank him for actually introducing that and giving us that authority.

Our cybertalent management system is Civil Service reform. We completely reinvented everything with regard to recruiting, hiring, pay, compensation, has market-sensitive pay, has the ability to hire somebody that just comes out of high school and has been able to win a national hackathon as a qualifying factor. Right?

It is really thinking about not just today but into the future. OPM supported that. OMB supported it. It actually has become a reality. It was implemented November 15, 2021.

It is my recommendation that your Subcommittee take the time to sit down with DHS and have them walk you through all of the benefits of that because what you will find is that—and one of the things that we have agreed to is that—we would give that playbook to everybody, to every Federal agency. If you were to take Title VI and amend it from just being for DHS and amend it to all Federal agencies for all Federal positions, you would have Civil Service reform.

It took us 7 years to do it. Right? It took a tremendous amount of time to peel back the onion on everything because when you throw away OPM's classifications and qualifications you have to actually know what the heck you are doing in order to then be able to build a system for the 21st Century.

Senator LANKFORD. Thank you.

Ms. GERTON. Senator Lankford, if I might make one point toward——

Senator LANKFORD. Go ahead, if you are OK with that.

Senator SINEMA. Go ahead.

Ms. GERTON. Your point about military spouses. When I was at Department of Labor in the Veterans Employment and Training Service, we worked diligently with the private sector on military spouse hiring. As an example, United Services Automobile Association (USAA), who of course is a very focused veteran employer, was anxious to bring military spouses on, recognizing the value of that hiring pool. They started a program where military spouses, regardless of where they work, could be trained as insurance adjusters and call center operators. So they could be anywhere and support USAA.

That grew into strategic career development paths for military spouses, recognizing that they were highly qualified, could move

around the world, be USAA's hands and feet basically in all kinds of places. USAA's model expanded further in the private sector.

To Senator Carper's point about the need to staff up IRS and SSA, especially in the call center and customer-facing responsibilities, I offer that the Veterans Employment Training Service at DOL is a place to go for that. They have the specific responsibility to support military spouse hiring, and they have a network across the country through the workforce system that helps establish those kinds of relationships.

To the last point about how do we make the more flexible system work—and of course, I am an advocate, as I have said many times, for the strategic reorientation of OPM—we have talked a lot about authorities that already exist but that people do not take advantage of. I want to make sure that we consider the role of the oversight community, the IGs, the auditors, the lawyers. In many cases, there is a culture inside organizations about what is and is not acceptable, what was or was not allowed, but that is separate from what actually is permissible. If we are going to reimagine the human capital system at the Federal Government, we need to make sure that the oversight community is engaged because in many cases they are the tacit setters of the permission framework within organizations.

Senator LANKFORD. OK. Thank you, Madam Chairwoman.

Senator SINEMA. Thank you, Senator Lankford. In the interest of time, I am going to ask one final question and then we will close the hearing. I know that at least one person has a travel issue we want to be careful about today.

My final question is for Ms. Bailey. In recent years, we have seen outdated classification standards and rules, making it harder to hire people in emerging STEM fields as well as preventing us from reskilling employees in obsolete fields. Some classification standards have not been updated since John F. Kennedy (JFK) was President, and the current system does not account for the multidisciplinary knowledge needed for many senior positions.

Based on your experience overseeing classification policy at OPM and in creating a new cyber personnel system at DHS, is there a way to empower CHCOs so they have more ability to design jobs and credentials that still uphold merit principles?

Ms. BAILEY. Yes, absolutely, and thank you for that question. It is absolutely possible to do this. This is one of the reasons why we walked away from the classification system for our cybertalent management system is because we recognized that it just cannot keep up with where we are.

But I want to stress it is not just about the CHCOs, and this is where I said it takes the whole C–Suite but it also takes leadership. It was because of my partnership with the CIO as well as Cybersecurity and Infrastructure Security Agency (CISA), our cyberagency within DHS, that we were able to create what we did under CTMS. That is where we were able to identify what are the current skills and things that you actually need in order to be able to fill the—not just fill the positions but actually meet the mission needs.

We have walked away from positions. You will not see anywhere on USAJOBS that we are hiring a position. We will say instead we

are looking for folks that have a technical background or know forensic network and, have been able to do some other things or maybe worked in a nonprofit with regard to human trafficking and all because what we are really trying to do is find the people. Once we get the people in, we can then work out where it is that they are going to work, what kind of jobs that they are going to have, and then how we are going to actually pay them.

It is a very private sector way of looking at this versus trying to box everybody into a position description (PD), that does not really cover what it is that they do anywhere and then box them into a job description that nobody really understands, and then they put in a bunch of buzzwords and check one through five that they can walk, talk, and chew bubblegum, and we never get the right, qualified people.

It all kind of goes together. The point that I am trying to make here is that what we really need to do is we need to reexamine all of this.

Again, from a DHS perspective, we have the playbook, the entire playbook on how to do this. It was through every attorney. It is through OPM, through OMB. Every single agency concurred with DHS's cybertalent management system.

I really encourage that you take a look at that because, again, I think it is the answer to where we need to go with regard to seeking out and qualifying potential applicants into our positions.

Senator SINEMA. Thank you. With that, we have reached the end of today's hearing. I appreciate all of our witnesses for your time and testimony and thank our colleagues for their participation. This is an important subject, and I look forward to working with my colleagues to improve security for the Civil Service human resources function.

Today's hearing record will remain open for 2 weeks, until March 16, 2022. That is when questions for the record are also due.

Thank you all again. We are adjourned.

[Whereupon, at 4:14 p.m., the Subcommittee was adjourned.]

A P P E N D I X

OPENING STATEMENT FOR SENATOR SINEMA:
March 2, 2022

I call today's hearing to order.

I welcome Ranking Member Lankford, members of the Subcommittee, and our witnesses to today's discussion about the role of the federal Chief Human Capital Officers, also known as CHCOs (CHEE-cos).

A more effective and efficient federal government starts with a better federal workforce. It doesn't matter how much we spend or how many laws we pass, if we do not have the right people in the right jobs, our federal government won't be successful in providing the services my constituents in Arizona count on every day.

CHCOs play a critical role in this effort. They oversee day-to-day workforce management to ensure the right employees are hired, trained, managed, promoted, and retained.

The Chief Human Capital Officer role was created in the Homeland Security Act of 2002 to elevate human capital efforts within agencies. After 20 years, it is important to explore what works about the CHCO role, what additional authorities they need to be successful and innovative, what gets in the way of their success, and how Congress can set up CHCOs for success.

It is so critical that Congress tackle that last part. The Government Accountability Office has included federal human capital management on its high risk list for more than twenty years. Numerous recent reports have highlighted the immediate need to address federal workforce innovation. Even the National Commission on Military and Public Service, the brainchild of Senator John McCain, spent significant time discussing how to fix federal human resources regulations and statutes.

Our Committee is starting to make progress. We recently passed my bipartisan Chance to Compete Act, which I partnered on with Ranking Member Lankford. That bill makes important improvements to how agencies assess

applicants, and has strong stakeholder support from manager and employee groups. We also hope to advance Sen. Lankford's Trust in Public Service Act soon. Today's hearing will build on that momentum.

The Merit System, which is the foundation of our federal workforce policy, remains the ideal and should never be weakened. However, it is wrong to say the Merit System is the same thing as the existing personnel system. We have a personnel system from the 1940s that uses assessment criteria often from the 1970s, and a hodgepodge of recent piecemeal changes that just make the whole system more complex. We need to do better – both for federal workers and the American people who rely on them.

I want to thank the witnesses for the testimony they submitted. You four represent an incredible cross-section of experience, and I thank you for taking the time to attend.

Opening Statement
Hearing before the Government Operations and Border Management Subcommittee, Wednesday, March 2nd at 2:30 PM

"Chief Human Capital Officers at 10: What is Needed to Empower CHCOs to Ensure HR Practices Support Agencies' Mission Success"

- Good afternoon and welcome to today's Subcommittee hearing to examine the role of the Chief Human Capital Officers and the CHCO Council and their contribution to strategic federal human capital management.

- The Federal workforce is at a critical point. A growing number of federal employees are eligible to retire and we have dwindling pipeline of experienced employees ready to fill those positions.

- In order to serve the American people efficiently in the years ahead, agencies must take decisive steps to plan for the future.

- This begins with improving the broken hiring process so that agencies can attract highly qualified candidates.

- It is universally acknowledged that the federal hiring process takes too long—the most recent data suggests it takes on average 98 days to competitively hire a federal employee.

- The best and the brightest candidates will not wait around for three and a half months and our strategy cannot rely on hoping that they do.

- Even if the government reached OPM's target of 80 days to hire, that would still not be competitive with private companies

- We all agree there is a problem and yet it continues year after year.

- In 2019, the Commission on National, Military, and Public Service made recommendations to increase our ability to hire, train, and retain federal employees. The Commission noted that federal human capital policy is often focused on short-term fixes which only add to the complexity to the federal hiring system.

- Whenever we have a hearing on this topic, I raise my concern about the proliferation of hiring authorities. GAO found there are 105

unique hiring authorities, but 20 of them are used 91% percent of the time.

- Our hiring system is broken, and it is demonstrated every time agencies come to Congress ask for direct hiring authority; if it is easier to get Congress to carve out an exception to the hiring process than it is to just use the existing process, that's a broken system.

- We also saw during the early days of the COVID pandemic a rapid shift toward remote work and telework.

- As we come out of the emergency, agencies need to be able to maintain much of the flexibility that they were able to create.

- We just finished a two year pilot project on remote work. We have proved the concept—now it is time to implement.

- We have highly qualified spouses of our active duty military who move with their family every 3 years, often to remote locations—they should have the first opportunity to compete for remote jobs in federal agencies.

- Other members of the federal family or people in rural America could have the opportunity for great jobs if this government is willing to open up competition and allow remote work.

- The Chief Human Capital Officers and the CHCO Council were established to address these challenges.

- I want to move to discussing solutions, so I would like to turn it over to our panel who can address that issue—what can we do to make sure that Chief Human Capital Officers and the CHCO Council are accomplishing what they was created to achieve?

Written Testimony of
Michael J. Rigas
Submitted to the
Subcommittee on Government Operations and Border Management of the
U.S. Senate Committee on Homeland Security and Governmental Affairs

"Chief Human Capital Officers at 20: What is Needed to Empower CHCOs to Ensure HR Practices Support Agencies' Mission Success"

March 2, 2022

Chairman Sinema, Ranking Member Lankford, members of the Committee, thank you for the opportunity to testify before you today on this important topic.

My name is Michael Rigas and I served as both the Acting Director of the Office of Personnel Management (OPM) and the Acting Deputy Director for Management at the Office of Management and Budget (OMB). In those capacities, I had the privilege of serving as both the chair and the vice chair of the Chief Human Capital Officers (CHCO) Council.

People are the most important resource of any organization. I have worked in the private sector, non-profit sector, and in state and federal government and that principle holds true no matter what the organization.

The federal government has some of the most dedicated public servants Americans could ask for, providing diligent and competent service to the American people every day. But as we are here to discuss today, we still fall short as a government when it comes to attracting and retaining the best and brightest to federal service and ensuring that poor performance and misconduct are effectively addressed.

From my experience working with the CHCO council over my three years at OPM, first as Deputy Director and then as Acting Director, I can say they are a valuable resource and advisor to the OPM Director. They provide important feedback about the positive and negative impacts of federal personnel law and regulations on the work of their agencies and suggestions for improvements to those policies. The missions and workforces of each agency the council members represent are as broad and diverse as the country they serve. And while their advice, recommendations and feedback to the OPM Director help shape personnel policy, there are real limits to what they or OPM can do. Here's why:

First there must be a realization that OPM does not oversee the entire federal workforce. Congress has created numerous carve outs and exceptions to Title 5, placing entire categories of employees and agencies outside the purview of OPM.

The CHCO Council is thus limited by Congress in that it provides advice to the OPM Director, who does not have authority over the entire federal workforce.

Second, because of those exceptions and continued creation of new authorities, the landscape for managing federal personnel has become overly complex and bureaucratic.

Third, over time, the level of seniority of individuals designated by their agency heads as Chief Human Capital Officers has become less senior. For example, if you look at the composition of the CHCO council from its first annual report FY 2003, you will see that the CHCO council comprised largely of Presidentially Appointed, Senate confirmed officials such as the Undersecretary for Personnel and Readiness from the Department of Defense and Assistant Secretaries for Management and Administration from other cabinet agencies. That is no longer the case.

But, even in the current environment, with all its complexities and limitations, real progress can be made with respect to improving how the federal government manages its most important resource, its people.

Here are a few examples of recent actions that yielded positive results and can be built upon to continue improve how we manage personnel and federal agencies that serve the American people. With the right leadership from Congress and the Executive Branch, substantial progress and reform can continue to be made.

As Deputy Director and then Acting Director of OPM, and as Acting Deputy Director for Management at OMB, I oversaw multiple efforts to address the underlying issues inhibiting the federal workforce from being viewed as a first-in-class employer while advancing Merit Systems Principles and strengthening the state of the civil service.

When our team came to OPM, significant challenges existed with the personnel vetting mission. We were experiencing the largest background investigation backlog in history with an inventory of 725,000 cases, and timeliness that exceeded a year to receive a top-secret clearance[1]. This situation made it difficult for Agencies to carry out their missions as the backlog hampered their ability to recruit qualified employees to serve in a timely manner. Because of the tireless efforts of both our career and non-career leadership, we were able to eliminate the backlog and safely reduce the amount of time it takes to conduct and adjudicate a background investigation.

OPM, working with the Director of the Office of National Intelligence and other key stakeholders, simultaneously spearheaded an effort to fundamentally transform

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[1] You May Have to Wait 2 Years to Get That Security Clearance, *Government Executive*, Lindy Kyzer, May 2, 2018 https://www.govexec.com/management/2018/05/you-may-have-wait-2-years-get-security-clearance/147859/

personnel vetting. This effort resulted in an increase of continuous vetting enrollments from 300,000 to over 2.4 million individuals by the end of 2020, a quantum leap forward for security and efficiency. This enabled the government to get trusted individuals hired faster, and improved the ability of the workforce to move among agencies, something which was previously much more difficult.

OPM was also able to successfully pilot a hiring process that reduced the candidate selection time from 45 to 16 days.[2] By utilizing subject matter experts during the assessment process and working with agency HR specialists, rather than relying on applicant self assessments, agencies were able to vastly improve the quality of the candidate pool and yield qualified candidates to hire. This methodology should be more widely used as hiring efforts which rely on self assessments often yield lists of candidates hiring managers do not deem qualified for the job, resulting in cancellation of the posting, frustrating both candidates and hiring managers.

The failure to find qualified candidates often leads to agencies asking for Direct Hire authority, which provides some limited flexibility - but does not in fact address the underlying issue of poor candidate assessments or sustainably shortening time to hire.

Moving to a skills-based assessment in the hiring process is an effort CHCOs can spearhead in their own agencies today.

As Acting Director of OPM, I advocated the expanded use of shared certificates to make them available government-wide, which would allow qualified candidates who are not hired at one agency to be hired immediately by another agency looking for qualified candidates for that same type of position. This pilot has been in place at The Department of Health and Human Services (HHS) and should be expanded across the government. This simple fix would greatly reduce the amount of time to hire from weeks to days by allowing agencies to hire candidates who have already been deemed qualified. It will save time and money for agencies, greatly improve the experience of job applicants, and demonstrate merit systems principles hiring can be effective and efficient.

This effort, already underway at HHS, can be undertaken by CHCOs at their respective agencies without waiting for OPM to deliver a government-wide solution.

While at OPM I also made clear that our mission was to support other agencies and do everything we could to help them execute on their mission. One great example of that was our work with the Department of Veterans Affairs as we responded to the global pandemic. In 2020 alone the Department of Veterans Affairs (VA) was able to hire over 50,000 employees, including doctors, nurses and front line responders to

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[2] OPM – USDS Pilot on Subject Matter Expert Qualification Assessments
https://www.usds.gov/projects/smeqa

the pandemic because of actions we took at OPM to provide the VA the flexibilities and authorities it needed to move quickly.

Other agencies facing similar exigent needs for immediate increases in their workforces to meet mission critical needs can follow this model working with OPM to meet their needs.

We also promoted and instituted policies and Executive Orders to hire the best and to bring accountability to the Federal Workforce. To ensure the most qualified person is hired, we helped agencies rely on skills-based assessments instead of self-assessments and other means that do not accurately measure skills. When fully implemented, these new assessments will make it easier to recruit and retain the best and brightest consistent with Merit Systems Principles.[3]

We also worked hard to be responsive to those concerns from federal employees and the public, and under the leadership of the President, acted to address them by recognizing and rewarding high performing employees and holding poor performing employees accountable.

Unfortunately those Executive Orders which directly responded to and support the concerns of federal employees have been rescinded by the current administration, and there is not any effort I am aware of to address the legitimate concerns federal employees have expressed about how the government deals with poor performers.

Nevertheless, CHCOs can and should do more to support the managers and supervisors in their agencies in holding poor performers accountable. This can be achieved with additional trainings and coaching for managers and supervisors, and support from CHCOs. We owe it to the vast majority of federal employees who work hard every day to provide service to taxpayers to hold those who do not meet those standards accountable. Federal Employees themselves indicate in their responses to the Federal Employee Viewpoint Survey (FEVS) that they do not believe enough is done in their work unit to deal with poor performers. This has consistently been among the lowest scores, if not the lowest score, employees give agencies on the FEVS.

As a direct result of our actions to improve the civil service, increase accountability, and support merit systems principles, job satisfaction among the Federal Workforce rose each year from 2017 reaching a record high number in 2020. It is clear from the data, that federal employees themselves recognized the work we did, in concert with our CHCOs, to make substantial improvements in the workplace.

With leadership from Congress and the executive branch that is willing to focus on addressing these challenges, and listening to federal employees as well as agency

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[3] White House prioritizes skills-based federal hiring in executive order, FedScoop, Billy Mitchell, June 26, 2020 https://www.fedscoop.com/white-house-skills-based-federal-hiring-executive-order/

leadership, there is much that can be done. We know what works, and we have demonstrated how concrete improvements can be achieved for taxpayers, agencies and federal employees.

I am extremely proud of what we were able to accomplish at OPM, working with the CHCOs across government and with the CHCO council. I hold the work of those at OPM and the CHCOs who worked to support these important accomplishments in the highest regard.

I am encouraged by the bipartisan legislation you have sponsored in the Chance to Compete Act which codifies many of these reform efforts to improve federal hiring and personnel practices.

Thank you for the opportunity to testify before you today. I look forward to answering questions and working alongside you to strengthen the efforts I was proud to help lead during my time as Chairman of the CHCO Council.

Angela Bailey
Written Testimony

"Chief Human Capital Officers at 20: What is Needed to Empower CHCOs to Ensure HR Practices Support Agencies' Mission Success"
Subcommittee on Government Operations and Border Management of the U.S. Senate Committee on Homeland Security and Governmental Affairs
March 2, 2022 (2:30 p.m.)

Good afternoon, Chairwoman Sinema, Ranking Member Lankford, and distinguished members of the Subcommittee. Thank you for the opportunity to appear today. I appreciate you inviting me to speak about the role of the Chief Human Capital Officers and their ability to carry out their responsibilities under the Homeland Security Act of 2002, as well as examining how better to empower agencies and CHCOs to accomplish their Human Capital functions while still upholding the Merit System Principles, including whether the CHCO Act requires modernization to ensure agencies are able to accomplish their missions.

My Journey

As you are aware, I recently retired from the Federal Government, after a career that spanned 40 years. Almost 35 of my 40 years were spent in the field of human capital, with the last 14 years as a career Senior Executive. I began my career as a GS-2 with the Social Security Administration, and would then spend almost half my career within the Department of Defense (DoD) providing labor and employee relations advice and support to managers and leadership within several different defense agencies. While working full time in the DoD, I met and married an Army soldier, raised two children, and went to college, earning both a Bachelor's and a Master's degree in Leadership. My last position with DoD was with the Defense Contract Management Agency as their Human Resources Director. In 2007, I went to the Office of Personnel Management (OPM) serving in several roles—Deputy Associate Director for Recruitment and Hiring, Associate Director for Employee Services and Chief Operating Officer. And, finally, my last Federal position was as the Chief Human Capital Officer with the Department of Homeland Security (DHS).

Just as important as the positions I have held, and the agencies I have served, is the experience I have lived over those four decades, witnessing many events that have touched the lives of our Federal workforce, including myself and my family. These events, some historic, others far from the headlines, have shaped so much of who I am, what I think, and why I believe the role of the CHCOs and their ability to have a positive impact on their agencies' mission is the essential foundation to ensuring the success of the Federal Government in carrying out its responsibilities on behalf of the citizens and nations they serve.

Some of the more notable events that shaped who I am today, and the CHCO I would become, include:

1. A summer internship at the age of 16, with the Army at Fort Ritchie, MD, where I learned the valuable lesson of the interplay between, civilians, military and contractors—today we call this the "total force."

2. A quick and simple test, as well as timely notification for a job with the Social Security Administration, would become the basis for the hiring reform I later led while at the Office of Personnel Management.

3. Numerous Base Realignments and Closures (BRACs) while with DoD, would cause me to have to move several times for new positions at new installations across Maryland, Pennsylvania, and Virginia. In fact, every single DoD agency that I worked for was BRACed…Fort Ritchie, Letterkenny Army Depot, Defense Logistics Agency—Defense Distribution Center and finally the Defense Contract Management Agency. These career moves, as well as the impact they had on my family, would serve me later as I led and designed several recruiting, hiring and skills development programs while at OPM and DHS.

4. Serving as a Chief Negotiator for management and taking disciplinary and performance-based actions against Federal employees while with DoD, would later help me establish productive relationships with National unions and steer my belief that additional legislation was not needed to take action against employees who could not or would not do their jobs—all that was really needed was for supervisors and leaders to have the will and the strength to do what had to be done. This led to me developing and delivering hands-on supervisor training and a lot of "you've got this" advice to help them get through the process—a process that at times was gut-wrenching for everyone involved.

5. Leading hiring reform efforts while at OPM, on behalf of both OPM and two different administrations, allowed me the opportunity to make modest changes to the Federal hiring process. It also brought to light that real civil service reform would take more than a few changes to OPM regulations. It would involve legislation and require Congressional support, as well as the support of OMB, national unions, veteran organizations, and good government groups. It would mean taking a bold, fresh look at legislation, regulations, policies and practices that were, in some cases, around since the early 1900s and designed for a Federal workforce within a Federal landscape that by and large no longer exists today. These initial reform efforts would later become the foundation for DHS's Cyber Talent Management System—a bold, innovative, and smart redesign of civil service recruiting, hiring, pay, compensation, training, and development.

6. Living through two public failures—the failed launch of USAJOBS and later the "Nation's largest breach" of millions of Federal employees' data, would forever change how I led major HRIT endeavors, "verifying and then trusting," as well as

solidify for me the importance of strong partnerships between CHCOs, and the rest of the C-Suite, including the Chief Information Officers (CIOs), Chief Financial Officers (CFOs), and Chief Acquisition Officers (CAOs).

7. Two government shutdowns would impact me and my family, as well as countless other Federal employees, including almost 200,000 DHS employees who worked 35 days without pay, and never once failed at their missions. These shutdowns would make me tenacious in ensuring we had employee and family readiness programs, including financial literacy training for our employees.

8. And, nothing was more heart-warming and heart-wrenching than going to the Southwest Border and sitting with our CBP officers and agents and their spouses and listening to them tell their stories of rescuing children in the desert discarded by the drug cartel, only to then go home and have to put their own child to bed at night, worrying and wondering if the child they rescued would be alright; or the wife of a fallen agent who spoke little English and wasn't sure how she would get her daughter to ballet; or the ICE agent who took off his uniform before picking up his son from daycare because he was afraid for his child's safety. These stories and so many more from our Secret Service Agents who missed yet another birthday while on travel, and Transportation Security Officers who are paid in some cases no more than someone working at a fast-food restaurant, and our Federal Emergency Management Agency first responders who drove into the hurricanes and fires to provide relief to those desperately in need, or our asylum and refugee specialists who have seen some of the worst that humans can do to one another. These stories and all the untold stories are what shaped the many different programs I worked tirelessly every day to ensure were offered and continue to be offered to the DHS workforce and their families. They deserve nothing less, and in fact, so much more.

9. On top of all of this, we faced a pandemic that would shake our sense of stability, upending our lives, and with no end in sight, would drag our psyche through the mud. And when we thought we could take no more, we also had social and civil unrest, with George Floyd's murder taking us to the tipping point. Our employees lost their lives on the front line and some even by their own hands, committing suicide when they had nowhere to turn. What I learned most from these past two years is that as humans, yes we are resilient, yes we are strong, but what we also need is human connection. It is the glue that holds us together and feeds our soul. My connection with the DHS workforce during these past two years was one of the most rewarding times of my entire career. They shared their joy and their sorrow with me: they shared pictures of their newborn babies; and moose enjoying a snack outside a border station; they told me that they weren't sure if they were enough; when they didn't know how to protect their crew and their family; that they sometimes felt like they were "too black to be blue, and too blue to be black;" and above all else what they really shared was that they were human, having a human experience with all its beauty and all its ugliness.

10. And finally, employee engagement. I have for the vast majority of my career had some of the best leaders one could ask for, and I've had just a couple who have made me raise an eyebrow or two. What I learned from all of them, collectively, is that leaders make a difference...and to borrow from one of my favorite leaders: you make a difference when you do nothing, you make a difference when you do the wrong thing and you make a difference when you do the right thing. Employee engagement cannot be outsourced, it is not a "HR thing" and it's more than "just getting along." It takes everyone—leaders, managers, supervisors, and employees —doing the right thing for people to feel included and engaged. We have an obligation to elevate the human experience, not just for ourselves, but for each other, including those we serve through our missions and those we live beside in our communities. It's not that difficult and we need to stop making excuses for why we don't engage with each other in meaningful ways—start small, make the time, ask questions and then genuinely listen, and most importantly be authentic and realistic.

I have shared all of this with you because it is important to understand that there is more to being a CHCO then simply providing human resources policy on "selecting, developing, training, and managing a high-quality, productive workforce," as the CHCO Act implies. And, it certainly takes more than just the CHCO Council, co-led by OPM and OMB, to address all of the issues impacting the Federal workforce and their families, not to mention the modernization of human resource systems and improved human resource information, as well as to devise and pass legislation for human resources operations and organizations. So, yes, not only does the CHCO Act need modernization, but so does how we approach the entire eco-system in which the Federal workforce accomplishes their agencies' mission.

My Recommendations

1. Humans are Not Capital or Resources. All agencies are made up of humans, doing things with and on behalf of or for other humans. And the most important thing we must always remember is that humans are not capital or resources...they are in fact, messy, complex, brilliant and evolving. We need to ensure agencies invest in their employees and their families. As I have said many times, what goes on at home, comes to work, and what goes on at work, goes home. And no matter how much and how fast we deploy technology or AI and robots to "take the human out of the process," at the end of the day, there is still and always will be a human who is creating, engaging, or benefiting with and from technology. Investing in their mind, body and spirit is not "woo-woo" ...it is mission imperative if we want agencies and their workforces to succeed.

2. Timely Budgets Are Critical. Almost every year, without fail, agencies face a continuing resolution, sometimes for weeks, other times months and occasionally for a year. Most drastic of all are shutdowns. Agencies and their workforces are expected to innovate, to create, to deliver, to produce, to service. And they are expected to do so with high-quality, on-time and within a reasonable cost. Yet,

what they must do instead is extend their delivery dates, delay their hiring, cut training, and hold-off on implementing new initiatives, all because a budget is not passed and ready to begin on October 1st of each fiscal year. Further, it would be extremely helpful to have two- or three-year budgets, versus having to prepare for, defend, and wait for a yearly budget. I cannot think of any new initiative that does not have a "tail" to it that includes personnel, maintenance, logistics, inflation, etc., and not knowing if you will have the money in the out years to implement your new idea, new training, new hires, new IT solution, often causes leaders to put innovation on hold.

3. Alternative Futures Planning is Essential. For the most part, agencies struggle to plan for the future. Some of it may be because of the instability of the budget process, but mostly it is because there is so much sitting in front of them right now to accomplish that they find it hard to pick their heads up and look out into the future. But the lack of doing so has a ripple effect across the agency, and nowhere is it felt more drastically than within their human resource needs. When an agency takes the time to think through alternative futures, with the CHCOs, then they can collectively work to source that future need, whether it is to buy the skill, build the skill, or to work with the educational systems to create curriculum and programs that will ensure a future workforce prepared to meet the agency's future mission requirements.

4. It Takes the Entire C-Suite. Nothing is accomplished by the CHCO alone. Almost every single initiative, program, training, hire, or system implemented, has tentacles that reach far beyond the CHCO suite and the CHCO Council. There is an interplay between the CFO, who helps to secure the funding, the CAO, who provides the acquisition strategy and the CIO, who ensures the system or platform used is viable. The Chief Security Officer (CSO) and the Chief Readiness Support Officer (CRSO), also play vital roles in delivery of products and services and we cannot underestimate the value of this team of experts and leaders pulling together to ensure agency's mission is accomplished.

5. Simplify and Flexibility. If I'm not mistaken, there are over 100 different hiring authorities on the books. Some are for specific agencies, others are for the entire Federal Government. No one can keep up with, manage, or use this many hiring authorities. Nor are they necessary. Of the over 2 million Federal jobs, only about 150,000 are available every year. To ensure agencies have as much flexibility as possible to hire into these critical positions, there really only needs to be two hiring authorities—one specifically for all qualified veterans who were honorably discharged; and the other authority should be for all qualified US citizens. Agencies should be able to seek applicants from all available sources, rather than tied to, for the most part, USAJOBS. The DHS Enhanced Hiring Act (DHS EHA) proposal is an excellent example of how simplified the hiring process could become if the DHS EHA is passed.

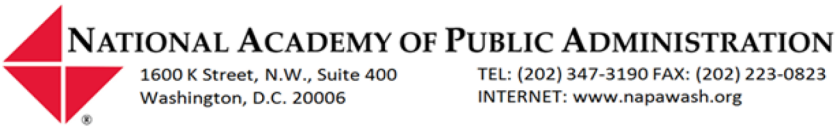
6. Modernize Classification, Qualifications, and Awards. As I mentioned above, the Federal classification system is outdated, exacerbating the pay and compensation disparity. Merit System Principle 3 states, "Equal pay should be provided for work of equal value, with appropriate consideration of both national and local rates paid by employers in the private sector, and appropriate incentives and recognition should be provided for excellence in performance." I'm not convinced this Merit Principle is followed at all. Within the same work "family," the classification system does a pretty good job of ensuring equal pay for work of equal value. For example, an HR specialist is paid pretty much the same regardless of agency or geographic location. But, when comparing an aerospace engineer to an HR specialist, within the same agency and geographic location, it's hard to imagine how or even why they are both paid the same. And, it is not clear to me either how or when rates in the private sector are factored in. This is exactly why DHS took the bold step of walking away from the OPM classification and qualification system for its cybersecurity positions and created the CTMS. It provides a modern approach to compensation, based on market-sensitive pay and a recognition that there are numerous ways to qualify for cyber positions beyond the traditional university route. It also recognized that there are more appropriate ways to award performance than simply taking the pot of money available for awards and splitting it evenly across the board. DHS's CTMS is true civil service reform and should be considered for all agencies. Congress would need to modify Title 6 to include all agencies and all positions for civil service reform to become a reality across the Federal Government.

7. Billion Dollar Operations—We've Got This. DHS's budget this fiscal year is over 122 billion dollars. It employs close to 250,000 employees. It has 22 different components, secures borders, ensures safe travel, stops human trafficking, delivers resources to people hit by fires and hurricanes, protects our cyber infrastructure, rescues people lost at sea, ensures athletes from across the world receive their visas to play on US professional teams, protects Presidents and world leaders, and has a mind-boggling 90 congressional committees and subcommittees overseeing it. Yet, despite all of this tremendous responsibility and accountability, DHS still has to go to OPM to request a waiver to fill a position with a rehired annuitant, allowing that person to receive a "dual-comp waiver;" DHS must request approval from the OPM director for an award over $10,000, they must get approval from OPM and OMB to offer voluntary early retirement and voluntary incentive pay to ensure it has the right number of folks in the right number of positions; and must seek approval from OPM for the number of senior executive allocations it can have to run its vast operation. There is no business anywhere that would find this amount of micro-management sane, and again, it seems to fly in the face of Merit Principle 5—the Federal workforce should be used efficiently and effectively. And, even more surreal is that all of the aforementioned OPM approvals will require legislation if there is any hope at all of having the agency CHCOs be--as the CHCO Act requires--the agency's advisor for human resources policy and charged with selecting, developing, training, and managing a high-quality, productive workforce.

8. Congressional Partnership. All of the above calls for a strong collaborative partnership with this Committee and other interested Congressional partners, committees and subcommittees if we are going to see any type of change, modernization and respect for the CHCO community. Most of what is outlined above will require legislation. There is an incredibly talented, strong, and committed CHCO community who is more than willing and able to work with Congress to write legislation that can and will fix most of what troubles the agencies today. Civil service reform and the role of the CHCO has been admired for way too long. There are more than enough studies, all concluding the same thing—that legislated modernization across the board is imperative if CHCOs and agencies are to succeed today and into the future. With OPM, the CHCO Council, and Congress working together, change is possible. There is a lot of talent within OPM to help write legislative language that is implementable (which is often not the case, when OPM is left out of the conversation), and there is a tremendous amount of realism, practicality, and expertise within the CHCO Council to help strategize and write the legislation needed to ensure the CHCOs and agencies have the flexibility, responsibility and accountability needed to "get the job done."

It is my greatest hope and desire that this hearing and my written and oral testimony spark some interest and some commitment to addressing if not all, at least some, of what I've addressed today. Most of what I've covered has been said before, some of it by me, during several different hearings over the last 14 years. I have had the pleasure and the honor of working with incredibly talented human resource professionals, at DoD, OPM, DHS, and across the Federal Government. They, like me, are committed to working with Congress to make the changes our Federal workforce, and the agencies whose mission they carry out, deserve.

Thank you again for the opportunity to speak with you today. It has been an honor to serve these past 40 years and I appreciate your willingness to listen and to entertain the idea of helping us, help you, make a difference.



Testimony

of

Teresa W. Gerton

President and Chief Executive Officer

National Academy of Public Administration

Before the

U.S. Senate Committee on Homeland Security and Governmental Affairs

Subcommittee on Government Operations and Border Management

March 2, 2022

Chair Sinema, Ranking Member Lankford, and members of the Committee, I appreciate the opportunity to testify today. I am a Fellow of the National Academy of Public Administration (the Academy) and have served as its President and Chief Executive Officer since January 2017. In addition to my experience leading the Academy, I spent three and a half years as a Deputy Assistant Secretary in the U.S. Department of Labor and eight and a half years as a Senior Executive in the Department of Defense, so I have personal experience with the topic of today's hearing. I have been a hiring manager, a Subject Matter Expert reviewer of applicant files, a member of Senior Executive hiring and interview panels, and a member of the Army's Senior Executive policy board. While serving as the Executive Deputy to the Commanding General of Army Materiel Command, I was responsible for the strategic management of over 80 Senior Executives, one-third of the Army's total allocation, along with the oversight of nearly 70,000 civilians in nearly every career field stationed around the world. I know how challenging it can be to make the federal personnel processes work.

The Academy also has deep expertise in federal human resource management topics. Established in 1967 and chartered by Congress in 1984, the Academy is an independent, non-profit, non-partisan organization dedicated to helping government leaders address today's most critical and complex challenges. The Academy has a robust organizational assessment capacity; a thorough grasp of cutting-edge needs and solutions across federal, state, and local governments; and unmatched independence, credibility, and expertise. Our organization consists of over 950 Fellows—including former cabinet officers, Members of Congress, governors, mayors, and state legislators, as well as distinguished scholars, career public administrators, and business executives. The Academy has a proven record of improving the quality, performance, and accountability of government at all levels.

Over 50 of our Fellows claim experience in federal HR, and of those, many were themselves federal Chief Human Capital Officers. These Fellows and others join together in the Academy's Standing Panel on the Public Service, meeting regularly to research, discuss, and propose actions to improve the HR practice at the federal level. They also contribute their expertise as members of Academy study panels, ensuring that all of our work includes consideration of strategic human capital implications. Across our history, many federal agencies have directly engaged the Academy and our Fellows for support in managing and modernizing their own HR systems. Supported agencies include the FBI, NASA, DOD, FAA, CDC, the Patent and Trademark Office, the U.S. Secret Service, and the U.S. Department of Transportation.

I am pleased to offer our perspective on what is needed to empower Chief Human Capital Officers in federal agencies to ensure that human resources practices support agencies' mission success. Our Congressional charter precludes the organization itself from taking an official position on legislation, and so my testimony today will reflect the Academy's history on this topic and our general recommendations.

THE ACADEMY'S PERSPECTIVES ON MODERNIZING THE HUMAN RESOURCES FUNCTION WITHIN THE FEDERAL GOVERNMENT

The Government Accountability Office (GAO) added strategic human capital management to its high-risk list in 2001. Two decades later, the topic remains on the high-risk list and, between the

2019 and 2021 lists, actually lost ground in the leadership commitment performance indicator while making no progress in the other four criteria. Moreover, GAO cites mission-critical skill gaps as a contributing factor in 22 of the other 35 high-risk areas. The previous two years of various remote and distributed work arrangements necessitated by the COVID-19 pandemic have only exacerbated already challenging operating practices within federal HR and made the modernization of this critical capability even more urgent.

Grand Challenges in Public Administration
The Academy agrees with GAO and in 2019 identified the need to *Modernize and Reinvigorate the Public Service* as one of twelve **Grand Challenges in Public Administration**. Even before the pandemic upended the workplace and changed individual perspectives about safe and meaningful work, we observed the significant risk that many public organizations would not have the workforce capacity necessary to achieve their critical missions and provide services to the public for the future.

In 2020, our Fellows developed action plans for each Grand Challenge that recommended actions the new presidential administration could undertake to make real progress in its first year in office. The action plan to modernize and reinvigorate the public service summed up the existing federal HR environment as follows:

> *At the time when the government needs fresh ideas, it struggles to hire young people. With twice as many employees over 60 years old as under 30, the federal government will face future workforce issues. The civil-service system itself is also antiquated with a pay-setting mechanism that was developed in 1949 and a Merit System that values compliance with rules more than merit.*

The paper recommended seven actions for 2021:

1. Build interest in public service and government as a career through a funded campaign initiated by the White House and managed by OPM.
2. Develop a modern system of flexible pay and job classification, beginning with an EO that maximizes the use of administrative flexibilities to streamline processes.
3. Initiate hiring reform that significantly expands the use of streamlined hiring authorities, uses modern assessment processes to identify high-quality candidates, and reduces the number of security clearance requirements.
4. Improve the quality of managers and supervisors in government.
5. Identify talent management in government as a presidential priority.
6. Refocus OPM with an emphasis on responsiveness and flexibility in Talent Management.
7. Identify and implement modern assessment processes, with a goal of eliminating applicant self-assessment questionnaires within one year.

Unfortunately, the COVID-19 pandemic has demanded the full attention of HR leaders in the Office of Personnel Management and across the agencies as they struggled to adapt to distributed work environments and address urgent workforce health and safety issues. There was no capacity to address the critical systemic shortcomings in the federal workforce system.

United States Office of Personnel Management Independent Assessment

At the same time as our Fellows were developing the recommendations for civil service reform under the Grand Challenges, Congress directed the Office of Personnel Management (OPM) to contract with the Academy to conduct a comprehensive, independent study that would address a series of specific issues surrounding OPM's responsibilities. These included:

- the statutory and non-statutory functions assigned to OPM and the challenges associated with executing those mandates;
- the means, options, and recommended course of actions for addressing the challenges identified, including feasibility, costs, and benefits;
- a timetable for the implementation of identified options and recommendations;
- the statutory or regulatory changes needed to execute the recommendations;
- the methods for engaging with other Federal entities potentially affected by recommendations involving changes to OPM's structure, functions, responsibilities, and authorities; and
- the views of identified stakeholders, including federal and non-federal entities or organizations representing customers and beneficiaries.

After a year of work, the Academy's Panel of Fellows provided its report in March 2021. In conducting this study, the Panel identified several cross-cutting challenges affecting OPM's ability to effectively deliver on its mission to lead federal human capital management.

These include various authorities governing federal human capital; lack of sustained leadership and priorities given the recurrent turnover of directors and deputy directors; limited use of data and data analytics to inform policy; outdated information technology engendering enterprise and operational risks; and constrained financial and staffing resources affecting staff capacity and supporting technology and tools.

The Panel concluded that meeting the needs of a 21st-century workforce will require a reinvigorated focus on strategic human capital management and performance. The need for an independent, enterprise-wide human capital agency and steward of the merit system principles is clear, as is the critical need to rebuild staff capacity, encourage innovation, and adopt a more data-driven, accountable, and forward-looking human capital approach. In addition, human capital management must be elevated. The OPM Director—and human capital as a whole—needs a "seat at the table." The Director should be the principal advisor to the President on human capital, as envisioned in the Civil Service Reform Act, and OPM should be that lead for federal civilian human capital, setting policy, establishing a framework for agencies to manage their workforces, facilitating innovation and the sharing of best practices and lessons learned, and both collecting and using data and data analytics. To execute that role effectively and achieve a strategic vision of elevating and supporting human capital as a strategic priority across the federal enterprise, OPM must reframe its mission, organization, and supporting processes. It must rebuild the agency's credibility and staff capacity—and it must reorient its internal culture from a predominantly compliance orientation to a more customer-focused, strategic, and forward-looking mindset. These actions will require the support of the President, Congress, and federal agencies.

With the proliferation of excepted authorities under Title 5 and other sections of the U.S. Code, OPM's current mission and focus on Title 5 is clearly not sufficient to address the complex workforce issues confronting the federal government. A more coherent and cohesive government-wide approach is needed—**one that affords agencies flexibilities for tailoring to meet their more unique requirements while ensuring adherence to merit system principles through effective oversight**.

The Panel offered a number of recommendations with objectives to highlight the intended outcome that would be achieved by implementing the recommendations. Successful implementation should yield the following results:

- Human capital is recognized and supported as a strategic priority across government by the Administration, the Congress, and federal agencies.
- OPM's role is reaffirmed and strengthened as the leader for strategic human capital management government-wide.
- OPM's approach to human capital management evolves from predominantly compliance-oriented to customer-focused, value-added, data-driven, and forward-looking, encouraging innovation and sharing of best practices.
- OPM's technology platforms are modernized, affording secure and efficient access to human capital data and systems supporting government-wide human capital management.

The Future of the Civil Service—No Time To Wait

Both the organizational assessment of OPM and the recommendations supporting the Grand Challenge to Modernize and Reinvigorate the Public Service draw from a common foundation. In 2017 and 2018, an Academy Panel chaired by Professor Don Kettl completed two papers outlining a fundamentally new vision for the future of federal civil service. Inspired by the changing nature of work in the private sector, these reports examined the impact of these inevitable changes on the civil service and concluded that, without immediate and significant change, we all risk a federal workforce that is neither trained for, structured for, nor adaptable to, the work that will be required of it, and that the need for radical change is urgent. The reports present a new model of talent management that rests on three fundamental tenets: mission first, principles always, and accountability to both.

More specifically, the Panel proposed that **agencies must have the freedom to design and execute their human capital strategies and management tools in a way that best supports their successful mission accomplishment.** In fact, the best measurement of any human capital strategy is the agency's mission performance. There are many workforce options already allowed by statute—agencies now need to be empowered and even encouraged to take advantage of those flexibilities in ways that best suit their mission objectives. The Academy has documented some progress and several remaining challenges in the effort to develop a national cybersecurity workforce in its recent report, *A Call to Action The Federal Government's Role in Building a Cybersecurity Workforce for the Nation*, but opportunity exists to extend such creativity to many other skillsets and career fields across the government.

The *No Time to Wait* vision promotes more flexibility in agency human capital management. At the same time, it constrains that flexibility by requiring it to be consistent with merit principles. These principles form the foundation that keeps our civil service professional and non-political, and we view them as non-negotiable. The role of a central personnel agency should be to assure that agencies maintain accountability to both mission success and merit system principles and assist them in achieving that balance. The future of the civil service must be based on the management of human talent, not positions. It must be developed with a focus on building a government workforce that can accomplish the work of government with new tools in a modern environment. Little has been done to implement the kind of change needed in the five years since the first *No Time to Wait* report. As you can imagine, the need has only grown more critical.

Inspired to Serve

Although not a product of the National Academy of Public Administration, the Academy worked closely with the National Commission on Military, National, and Public Service in the development of the public service recommendations in their report, *Inspired to Serve*, released in March 2020. The Commission did not shy away from blunt language in their description of the federal civil service system and the urgent need for comprehensive reform:

> *The Federal civil service personnel systems require urgent attention…Existing practices block younger Americans and workers with critical skills from entering public service and jeopardize the ability of Federal agencies to replenish their workforce in the face of a looming wave of retirements.*
>
> *Modernizing the civil service is politically and technically difficult. The public service recommendations…attempt to address near-term, urgent problems and long-term, structural issues: existing personnel processes should work better so that agencies can function today, and the Federal personnel system should be replaced with a modern, talent-management approach to enable the Federal Government to be competitive with other employers in the future.*

The Commission's recommendations regarding improvement of the federal civil service are entirely consistent with the Academy's vision for a modernized and reinvigorated public service.

IMPACT OF THE COVID-19 PANDEMIC

This vision of a federated civil service system based on talent management and driven by mission accomplishment and merit systems principles was beginning to get some conceptual traction before the pandemic. The pandemic has only increased the urgency of modernizing the federal civil service. Yet, it has also prevented deliberate systemic change as OPM and federal agencies were forced to respond to immediate policy and operating challenges posed by the need to protect employee and public safety.

The Academy has hosted for the past year, in partnership with the Senior Executive Association and the Shared Services Leadership Coalition, a monthly forum for federal CHCOs and their staff teams, focused on these emerging challenges. We have brought industry and academic leaders together with federal managers to discuss best practices related to topics as varied as managing a distributed workforce, the impact of locality pay in a distributed work environment, support for employee wellness and morale, and the integration of workspace and workforce planning for the future.

At the same time, significant spending programs to support national recovery combined with a nationwide reimagining by individual workers of their employment preferences have created even greater numbers of vacancies across the federal workforce. The urgent need to hire new employees to manage new programs; the perpetual shortage of individuals with technical skills in cybersecurity, data analytics, and other STEM fields; and the growing focus on developing government programs with a focus on customer experience and expectations have created a perfect storm. The federal government's average time to hire approximates 100 days—that is not competitive in a normal labor market and can be devastating in the post-pandemic competition for talent. With some exceptions, the federal government's pay and benefits structure does not align with the market rates for high-demand talent. The pay systems lack the flexibility needed to compete effectively. Perhaps more importantly, the federal government's skill classification and promotion systems do not match the individual development goals of today's workforce. As the Academy reports said nearly five years ago, the federal government's mid-20th century people systems have fallen far behind what government needs to serve citizens in the twenty-first century. We cannot continue to wait to adapt to the changing nature of work. Indeed, technology and the pandemic have already changed work. Unless the federal government launches an aggressive effort now to rebuild its workforce, it will fall further behind in its ability to serve the public. Government could risk losing its ability to govern.

THE ROLE OF THE CHCO IS MORE IMPORTANT THAN EVER

The role of the CHCO is more important now than ever, but we cannot modernize that role and then leave them in the antiquated system we currently have and expect different results. We must undertake a systemic renovation of the entire federal personnel system.

The Academy's assessment of OPM is the place to start. The study provides a roadmap of actions needed to raise the attention on, and value of, human capital for addressing critical workforce issues by reframing OPM's mission and affording the agency the foundation required to lead strategic human capital management government-wide. To achieve the vision of elevating and supporting human capital as a strategic priority across the federal enterprise, an appropriately resourced OPM will need to pivot and refresh its organization and operating model. OPM must lead a whole of government approach to people that values performance over mere compliance and talent management and development over position fill rate. OPM should be the lead for federal civilian human capital, setting policy, establishing a framework for agencies to manage their workforces, facilitating innovation and the sharing of best practices and lessons learned, and collecting/using data and data analytics. That means OPM has to change to have the credibility to

serve such a role. It must be more responsive, flexible, and focused on supporting agency missions rather than overseeing enforcement of OPM policy.

Within such a system, CHCOs can be empowered to be the strategic personnel leaders within their agencies that the Chief Human Capital Officers Act envisioned twenty years ago. They should be given the authority to recommend and execute the recruitment, development, and retention strategies that best enable their agency to accomplish its mission. They must have, and be able to use, systems that provide real-time data on their current workforce, their future workforce requirements, and the gap between the two so that they can develop effective workforce management strategies. They must have the most modern tools and processes to incentivize and evaluate candidates and the flexibility to deploy them as necessary without first seeking permission from OPM. They are the lead for ensuring that agency practices promote diversity, equity, inclusion, and accessibility; protect employee safety and wellness; support employee engagement; and protect merit principles. The CHCOs I know recognize that the government's effectiveness is the product of its people, understand their potential impact on the daily functions of government, and relish their position on the front lines of mission accomplishment.

Making this construct real requires commitment and support from both the Administration and Congress. It will also require a concerted effort to improve the capacity of the human resource community government-wide; training and upskilling are essential. Recruiting, developing and retaining the right talent should be a priority nonpartisan concern. Whether you believe government should be smaller or larger, we should all agree that the government needs a highly skilled workforce to serve the American people. In this case, the COVID-19 pandemic may have a silver lining—it has already forced myriad changes in what we believe possible and driven adaptation in distributed work arrangements, technology, and hiring flexibilities. We dare not waste the opportunity this tragedy has created…there is simply no more time to wait.

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Since its establishment in 1967, the Academy has responded to requests for assistance from a wide range of agencies and organizations and has undertaken numerous studies on issues of interest to Congress and the Executive Branch. With its network of distinguished Fellows and an experienced, multi-dimensional professional staff, the Academy is uniquely qualified and trusted to provide objective advice and practical solutions that help government leaders overcome complex challenges and produce positive change.

Each Academy project is directed and overseen by an expert Panel or Expert Advisory Group (EAG) that consists primarily of Fellows. These Panels or EAGs provide high-level expertise and knowledge of current and emerging best practices. They are supported by a professional study team of highly qualified project directors, analysts and researchers that ensure our Panels have all the information required to develop their recommendations and provide meaningful advice to our client organizations.

I would reiterate that the Academy has many Fellows with deep recent experience in federal human capital management. We convene them regularly through our Standing Panel on the Public Service and can engage them on specific topics as required. We would welcome the opportunity to partner

with this Committee to develop and evaluate options that could lead to a stronger and more modern federal civil service system where CHCOs are able and empowered to perform the functions envisioned in the CHCO Act of 2002.

Mr. Chairman, that concludes my written statement, and I would be pleased to answer any questions you or the Committee members may have.

Statement of
STEVEN V. LENKART
EXECUTIVE DIRECTOR
NATIONAL FEDERATION OF FEDERAL EMPLOYEES, IAMAW
before the
Subcommittee on Government Operations and Border Management
Committee on Homeland Security and Governmental Affairs
United States Senate
Hearing on
"Chief Human Capital Officers at 20:
What is Needed to Empower CHCOs to Ensure HR Practices Support Agencies' Mission Success"
March 2, 2022

Greetings Madam Chair, Ranking Member Lankford, and Members of the Subcommittee.

My name is Steve Lenkart, Executive Director of the National Federation of Federal Employees, America's oldest federal employee union now in its 105th year of operation. I am a career member of the Senior Executive Service, during the tenure of which I served as the chief operating officer for three federal agencies. One of those agencies, and perhaps the most relevant to today's hearing, is the Merit Systems Protection Board (MSPB) where I served as Executive Director. My responsibility was to discharge the agency's mission of ensuring efficiency, effectiveness, and fairness within the federal workforce of two million employees.

The Modern Relevance of the Civil Service Reform Act of 1978

The MSPB was created in 1978 via the Civil Service Reform Act. The same law also created the Office of Personnel Management (OPM), the Office of Special Counsel, the Federal Labor Relations Authority, the Senior Executive Service, and Merit System Principles. Together, these entities were meant to operate under the law as a vigilant system of checks and balances to empower managers while protecting the government and its workforce form undue influence, unethical behavior, and corruption.

In its design, the Civil Service Reform Act (CSRA) was brilliant. It provided for equal and opposing forces within the Executive Branch that are charged with the creation, implementation, evaluation, and alteration of the policies that govern Executive Branch operations. The CSRA was intelligent enough to anticipate an evolving federal workforce, one shaped by future challenges and uncertainty to which the country must respond. It is from and on behalf of this realization that led to the creation of the Merit System Principles (5 USC 2301).

The Merit Systems Principles

With all the uncertainty we face today, and with the pace at which events occur, the requirements of the federal workforce change daily. Merit System Principles serve as the basic

tenets of good government, meant to withstand the test of time through the application of sound management practices. Often misunderstood and even mocked when compared to less structured private sector practices, Merit System Principles ensure that workforce of the government is prepared to address the requirements of the present and the future. Merit System Principles are as unique as they are critical because unlike the private sector, government cannot fail. Businesses and industries fail all the time, most without any lasting impact. Conversely, a failure of government, even once, is catastrophic and would cripple the chances of recovery for the country.

It is out of this concern—the fear of failure—that we hold government to a higher standard. It is why the CSRA created the merit principles to govern our processes and policies to prevent the government from falling into unethical or corrupt hands. Our Merit System Principles are nothing less than a cornerstone of a modern democracy, a foundation from which the business of the government shall excel, free from undue political influence and corruption.

OPM and CHCOs and the Role of Merit

The Merit System Principles are a governing doctrine for the policies of the Office of Personnel Management. Along with the Chief Human Capital Officers (CHCOs) of the federal departments and agencies, OPM serves as facilitator and enforcer of workforce policies and operations. In brief, their shared responsibility is to ensure that the federal workforce is suitably staffed via proper means, and that modifications are anticipated to keep the workforce effective, efficient, and fair.

As the senior authority of the two, OPM is charged with creating and implementing government-wide policies, and then disseminating its guidance via directives and other means to CHCOs across the federal departments and agencies. Having a single authority for human resources management is critical; the government cannot withstand 100 independently operating human resource offices under the same employer. That is an unabashed recipe for disaster, inconsistences, unethical behavior, and corruption.

OPM and CHCOs as Facilitators and Enforcers

However, CHCOs are on the front line and often the first to experience problems that lead to inefficiencies, mismanagement, poor behavior, or worse. Therefore, CHCOs need as many tools as possible at their disposal to handle these issues as quickly as possible without violating law or regulation. Consequently, a balance must be achieved in the relationships between OPM and CHCO that allows certain flexibilities conducted through transparency and independent oversight.

For both OPM and CHCO, ordinary times present significant challenges for maintaining the federal workforce. These challenges include a constant stream of congressional continuing resolutions that make qualified workforce planning nearly impossible. Other challenges include swings in the nation's employment markets, and equally, diversions in national economic

security that will increase or decrease the number of applicants. Greater challenges even still include large-scale human and natural events, such as pandemics or war, that will place heavy demands on the federal workforce and its requirements. These are events we cannot control; nonetheless, they are events for which we must be ready.

The Case for Change and the Strengthening Merit

In the name of readiness, it is important and quite remarkable to note that the number of federal employees has not changed much since 1951 even though the population of the United States has more than doubled. While the number of federal employees has remained largely the same, the aperture of mission has increased dramatically. As a result, a proactive and strategic approach to human capital management is necessary to continue modernizing, leading, adapting, and overcoming obstacles.

As envisioned in the CSRA, the optimal human capital environment comprises several elements working together. This means that OPM remains apolitical, the tribunals are staffed, the investigators are unbiased, and the CHCOs are productive and embracing merit. If any of these elements fail, a gap exists in the overarching system of merit making it easier to exploit the other parts. It is in the interest of a complete and fully effective system of merit that I submit the following recommendations for your consideration:

1. The U.S. Merit Systems Protection Board needs immediate staffing at the Board level, and its original mandates exercised with more vigor and frequency. Specifically, the MSPB should increase the frequency of published studies regarding the federal workforce, and a new mechanism should compel OPM and CHCOs to review study findings. Also, the MSPB must further embrace its original mandate of reviewing the significant actions and policies of OPM and react accordingly to safeguard merit principles. The duty of MSPB to review and respond appropriately to the actions and policies of OPM is very clear in the law however this has hardly ever occurred.
2. Consider increasing career apolitical leadership representation in the very top senior ranks at OPM. If any agency requires stability throughout a presidential transition, OPM is certainly at the top of the list. As an added benefit, long-term top leadership can increase long-term accountability, transparency, and planning.
3. Consider the same benefits of apolitical career-reserved leadership for department and agency CHCOs and chief administrative officers for ease of transitions between administrations and increased accountability, transparency, and performance over time.
4. Create a robust OPM Advisory Committee on Human Capital that consists of apolitical public and private sector human resources experts, federal labor and management, academia, and federal worker affinity groups.
5. Consider expanding the aperture and efficacy of the Chief Human Capital Council (CHCO Council) to provide CHCOs with a mechanism to explore and implement solutions to the

problems of human capital while ensuring strict adherence to Merit System Principles through the advice and review by the MSPB.

6. OPM and CHCOs together and separately should discuss changes to support the workforce that may or may not warrant legislation, such as minimizing the reliance on four-year degrees as an absolute requirement, raising the caps on student loan forgiveness in public service, creating more mobility in job classifications, improving access and professionalism of federal internships, and other innovations while protecting merit principles.
7. Pass legislation to allow career SES and senior managers, including CHCOs, to performance review and discipline Schedule C and SES noncareer or political appointees. While political appointees serve at the pleasure of a president or other singular authority, they are still bound to the same laws and regulations as career employees, including those directing performance and conduct. The time has come to end the "secret workforce inside the workforce" by simply allowing seasoned career professionals to evaluate and supervise noncareer appointees. This is a no-cost recommendation that will increase the level of transparency and accountability otherwise required under law, and it may improve the quality of political appointments.
8. Limit the use of Direct Hire Authority (DHA). DHA is authorized only in rare instances of a demonstrated critical need or a severe shortage of applicants. The use of DHA is a sign of failure if the critical need or shortage is caused by a lengthy hiring time or a lack of outreach to find qualified applicants. For these instances, other remedies exist that do not involve the suspension of merit principles. In addition, movement of an employee hired under DHA should increase from 90 days to one year to discourage the disingenuous use of DHA to secretly hire for another competitive position.
9. Limit the expansion of Excepted Service positions and other authorities that circumvent competitive hiring and promotions or limit systematic protections that enforce honesty and fairness in the workplace. With every step away from the systematic protections afforded under Title 5 USC, the propensity for misuse and mistreatment of federal employees and federal resources increases dramatically. The use of Excepted Service authority for the intelligence community and other professional cadres, such as information technology, should be reconsidered. Flexibilities exist for pay and other unique requirements, such as the control of sensitive information, without the need to compromise the systematic protections (i.e., Merit System Principles) that keep government honest, transparent, and accountable.
10. Pass legislation to prevent the creation of hiring authorities and employment classifications that pervert the law, such as the Schedule F hiring authority created under Executive Order 13957 in October of 2021. There is no legitimate business case for Schedule F-like authorities. Schedule F and hiring schemes like it are a precise return to deep-rooted, permanent corruption in government. Schedule F and employment schemes like it are defended only by dark money political hacks or criminal opportunists seeking to infiltrate government for personal gain. This kind of unchecked authority is a

risk to national security because it creates an easily exploitable vulnerability for bad actors, foreign and domestic.

In Conclusion: The Risk Versus the Reward

The government of the United States is based on the tenets of an open democracy. As such, we accept a certain level of risk that bad actors and other transgressors will attempt to exploit or game for personal gain or for more nefarious reasons. I am not afraid of the risk nor am I afraid of the dark pursuits of individuals because the proven good far outweighs the negative. I am up for this fight, and I hope that sentiment is shared widely and commonly among all Americans as we continue our collective pursuits of happiness, stability, and prosperity.

An open democracy allows employment opportunities within the federal government for those who want to give back, or for those who want to serve their country in a civilian capacity, or for those who want to be a part of something more important than themselves. The relationships between OPM, CHCOs, the tribunals, and other supporting elements are critical to affording those opportunities to all Americans, and it clears a path for the future success of the country. I thank the Subcommittee for prioritizing the relationships between OPM and the departments and agencies that drive human capital wellness and performance, and I look forward to continuing to work with you in the future on these and other issues regarding the federal workforce.

Thank you.

Post-Hearing Questions for the Record
Submitted to Michael Rigas
From Senator Kyrsten Sinema

"Chief Human Capital Officers at 20: What is Needed to Empower CHCOs to Ensure HR Practices Support Agencies' Mission Success."
March 2, 2022

1. Based on the OPM Congressional Budget Justification, OPM receives approximately half a billion dollars from agencies for services. Agencies have expressed concerns about the amount they need to pay for these services. Such concerns have been echoed in recent reports about whether existing regulations and policies are designed to maximize OPM's revolving fund. Do you have concerns about CHCOs and agencies having to devote their budget to pay for OPM services? Also, do you believe the amount charged by OPM was appropriate?

   Agencies should have the flexibility to procure the services they need from the provider of choice that best meets their specific agency needs. OPM's Human Resources Solutions (HRS) provides many valuable services to agencies, for a fee. But agencies can and should be able to choose from where they procure the services they need.

   My view is that more competition is better and will result in higher quality products and maintain discipline on costs to taxpayers, both for agencies spending taxpayer dollars, and for OPM HRS providing those services to agencies for a fee.

   As noted in your question, there is a concern that for OPM, the agency that promulgates regulations that agencies must comply with, to then provide consulting services agencies must pay for on how to comply with those regulations, provides at minimum the perception of a conflict of interest. While the components of OPM that engage in the regulatory and consulting activities are separate components headed by different senior executives and do not share staff, this issue merits further study.

2. In your opinion, what current OPM functions or services should Congress provide appropriations for so that agencies don't have to buy them from OPM?

   At present agencies are free to procure human resources consulting services in the market from a multitude of providers that offer HR consulting services to federal agencies. This competition allows for agencies to shop for the best value for their agency and for taxpayers.

   It might be worthwhile to review current agency spending on human capital services to determine where agencies are spending their dollars in this area, and how much of that is spent at OPM HRS and how much is spent at other service providers, and for what specific services.

One area where it may be beneficial to provide appropriations for OPM so that agencies do not have to buy the services from OPM or other providers, would be in the creation of assessments for positions that are used by multiple agencies where OPM, acting on behalf of multiple agencies, could create efficiencies and savings for agencies by developing those widely used assessments. I would start by looking at positions for which government wide shared certificates are used as those begin to be more widely used.

While it may be tempting to "solve" the problem of agencies purchasing services from OPM by appropriating money to OPM so it can provide those services to agencies at no cost to agencies, it may have the unintended effect of creating a monopoly on those services resulting in actual costs to the government going up over the long term while quality and innovation suffer due to lack of competition. This question should be carefully considered and input from agencies that procure these services, as customers should be given great weight. It is important to maintain the balance of agencies having the flexibility they need to meet their missions while avoiding duplication of efforts and being good stewards of taxpayer dollars.

Agencies should have the flexibility to procure the services they need from the provider of choice that best meets their specific agency needs. For services which Congress requires OPM be the sole providers of services, such as administering certain activities within the Administrative Law Judge program, funding must align with the requirement imposed by Congress.

3. Can you please clarify whether you believe CHCOs should be career or political appointees?

The CHCO Act calls for agency heads to designate a Chief Human Capital Officer. At its inception in FY2003, many of the original CHCOs designated by agency heads were themselves Presidentially Appointed Senate confirmed officials and thus were more readily held accountable both by the agency head and by Congress. The individual designated by the agency head as a CHCO should be the senior most person at the agency that can balance the competing interests required in the position for setting strategic human capital priorities efficiently, effectively and in compliance with the relevant rules and regulations. The person should have the confidence of and the ear of the current agency head, and also the ability to be held accountable by the agency head. What the CHCO act sought to do was elevate the role of human capital so the function would not be just another administrative function of the agency.

I don't believe it is necessary to further designate or restrict whom the agency head can designate as a CHCO. For the role to be successful, the agency head should have the flexibility to designate an individual that has their trust and can act expeditiously to carry out administration policy with respect to human capital at the agency. Good governance also requires that authority for a function and accountability for that function not reside in two different places. If the agency head is going to be held accountable by Congress for the human capital performance of an agency, that agency head must have the authority to determine who is designated the agency CHCO.

Rather than focusing on legislative action further defining and circumscribing who the CHCO is or what authorities the role has, I believe the committee should maintain the flexibility afforded to agency heads and renew its oversight of the function by asking agency heads (or nominees) themselves how they will address the human capital challenges their agency faces.

Post-Hearing Questions for the Record
Submitted to Angela Bailey
From Senator Kyrsten Sinema

"Chief Human Capital Officers at 20: What is Needed to Empower CHCOs to Ensure HR Practices Support Agencies' Mission Success."
March 2, 2022

1. You discussed expanding the Title 6 authority the Department of Homeland Security has for its cyber personnel, stating clearly "this is hiring reform."

    a. Is your suggestion to provide the authority just for cyber and related positions?

    Response: My suggestion is to provide Title 6 authority to all Federal agencies for all Federal positions.

    b. Can Title 6 include appeal and bargaining rights?

    Response: Yes, because it includes that now.

    c. What would be the role for OPM if Title 6 is expanded?

    Response: OPM does not have a role with Title 6, other than those areas where Title 5 still is in place, such as for appeal and bargaining rights. OPM would be a consultant to agencies who choose to use Title 6, but would not have statutory authority over those agencies.

    d. Based on your experience, how long would it take to implement an expansion of Title 6 authority in other fields?

    Response: About 2-3 years, since a tremendous amount of work needs to go into valuing the work (since agencies will no longer use OPM's classification and qualification systems), assessing the work, and ensuring that it is properly implemented.

2. Would you be able to provide the committee a copy of the legislative language the CHCOs developed in 2019?

    Response: I don't have a copy of it, but OPM or the CHCOC should have a copy of the legislative language that the CHCOs developed and provided to OPM.

3. As a CHCO, how did the Government Performance Modernization Act (GPRA) and President's Management Agenda help you accomplish your mission?

    Response: It didn't have much of an impact or help me accomplish my mission. It is mainly very high level ideas that are not usually implemented by the agencies because of various rules, regulations and labor relations obligations.

4. How much of your staff's time is spent on bureaucratic tasks that you believe can be eliminated?

Response: About 50% of the staff's time is spent responding to reports, data calls, etc., that should be eliminated due to most of what is provided to Congress, OMB, OPM, GAO, etc., is rarely, if ever used by those offices.

5. The law to determine when to allow special salary rates is clear, and can be a useful tool to respond to specific hiring and retention challenges.

   a. From the agency CHCO perspective, what gets in the way of greater use of special pay rates?

Response: We get in our own way for making greater use of the special pay rates because we often worry about litigation, consistency, etc. Budgets also play a role in our ability to use the special pay rates.

   b. Why do you think OPM does not approve this authority more, especially in well-known situations such as firefighters and border patrol agents in remote locations?

Response: OPM's overarching goal is to drive every agency to as much consistency as possible across the Federal government, with salaries, and by doing so, it often causes a disparity for the very folks who could use it the most.

   c. Should CHCOs have greater authority to make special pay rate decisions independently, so long as appropriations exist?

Response: Yes.

6. Currently, OPM has sole authority to change classification standards, including removing college degrees and years of experience. Should Congress shift more responsibility for classification to agency CHCOs?

Response: Yes, however, agencies need to be prepared to do the hard work of evaluating and compensating work…this is why it will take 2-3 years for agencies to implement Title 6 if it were to be expanded for all agencies.

Post-Hearing Questions for the Record
Submitted to Terry Gerton
From Senator Kyrsten Sinema

"Chief Human Capital Officers at 20: What is Needed to Empower CHCOs to Ensure HR Practices Support Agencies' Mission Success."
March 2, 2022

1. Other mission support fields have Congressionally-mandated data requirements such at FITARA for Information Technology and DATA for Finance. Would you recommend similar Human Resources data become publically available for Congressional oversight and use by researchers who could then more easily propose improvements?

Answer:

Better use of data and data analytics can propel strategic human capital management government-wide. By employing data and analytics, agencies can make more informed decisions on workforce planning and talent management and identify actions needed to improve organizational and employee performance. Data can be used to inform policies and conduct efficient oversight and compliance. More importantly, it can be used to identify insights and better prepare for the future as work and the workforce evolve.

Today, OPM collects and houses an array of human capital data that could be used to identify systemic issues and inform policy, but for a variety of reasons, success in leveraging the data is limited and opportunities are lost.

- For example, the information is subject to the Privacy Act and any use and disclosure must comply with the Act and implementing guidance. Given the sensitive nature of personnel information and its potential for unauthorized use, there are some valid privacy concerns.
- Second, there are issues with the access, availability, and quality of some datasets, including lack of integration and interoperability.
- Finally, leadership focus and attention on the potential of data and analytics—and its impact to better inform policy, conduct more efficient and effective oversight, and enhance customer experience—are lacking.

By embracing data and analytics, OPM can play the role of a strategic, proactive human capital leader, assisting agencies with government-wide insights and truly transforming federal human capital management. By more effectively and comprehensively sharing data with federal agencies, OPM can position those agencies to further their own human capital improvements.

OPM should establish a systematic approach and process to measure and track the state and capacity of the federal workforce. Steps should include:

• Developing and tracking a baseline set of metrics to assess the health of the federal workforce along key dimensions—recruitment, hiring, skills gaps, attrition, among others—and emerging and future workforce needs.

• Systematically assessing the strategic capacity (skills and competencies) of the federal human capital workforce and identifying actions needed to build the skills and competencies needed to carry out strategic human capital management in support of the federal workforce.

OPM should also broaden the availability and accessibility of the data it provides to agencies and the public, in addition to providing tools to help agencies with data collection, analysis, and reporting.

BUT—it is not enough to direct OPM to do these things. Congress must support them with funding to modernize and secure their systems and to build and develop a workforce that can deliver impactful data analysis and forecasts.

Post-Hearing Questions for the Record
Submitted to Steve Lenkart
Executive Director
National Federation of Federal Employees
From Senator Kyrsten Sinema

"Chief Human Capital Officers at 20: What is Needed to Empower CHCOs to Ensure HR Practices Support Agencies' Mission Success."
March 2, 2022

1. *Considering 85 percent of federal employees are located outside of the Washington D.C. metropolitan area, how would federal employees outside of Washington benefit from increased ability to negotiate local-based bargaining agreements that reflect the nuances of their unique location and job conditions?*

   ANSWER (Steve Lenkart; April 14, 2022)

   Any time that we, as a government, can better address the requirements for federal jobs to remain competitive, effective, and efficient, we should do so. This includes allowing local bargaining, whether geographic or mission in perspective, to ensure that the needs of that workforce are met and all options for an exceptional return on taxpayer investment remain explored. The agencies with the best recruitment and retention histories are more often agencies with active collective bargaining agreements because the union serves as a qualified authority on private sector trends, including pay and working conditions.

   For an employer as large as the federal government, it is easy to overlook local requirements in favor of broader-based mechanisms that attempt one-size-fits-all solutions. While consistency is certainly important, as is adherence to merit systems principles, a level of localized flexibility in negotiating is equally important to address requirements and market needs in specific areas. This improves upon the delivery of mission for management and employees alike.

2. *Ms. Bailey suggested expanding Title 6 authority to other agencies. Speaking on behalf of your Union, and to the best of your experience, what is your reaction to that proposal? What elements of a Title 6 expansion would need to be consider to garner additional employee group and union support?*

   ANSWER (Steve Lenkart; April 14, 2022)

   Title 6 authority was granted to address a very specific market need based on extreme recruiting and retention difficulties for cyber and Information Technology experts. Title 6 has not been fully implemented yet at the Department of Homeland Security. Therefore, it is premature to assess any success or benefits versus any failures or impediments from Title 6 authority. However, the fact that Title 6 exists at all is not without its own controversary. With all the existing hiring authorities, special pay

authorities, and other human capital flexibilities under Title 5, it seems to me that Title 6 is, more than likely, unnecessary.

The difficulty of hiring and retaining IT professionals is nothing new. The government has struggled in recruitment and retention with IT professionals and other market in-demand professionals for decades. Therefore, special hiring authorities and special pay rates exist under Title 5. The argument that Title 5 obstructs expedient hiring, retention, performance, discipline, and termination is weak. In addition, nothing in the Merit Systems Principles requires that any of these processes take a long time. Merit System Principles only require that they be done fairly, effectively, efficiently, and absent discrimination or undue influence.

Much can be done to improve the time and energy involved in these processes without creating new authorities or abandoning merit principles. As the practice of human capital becomes more bureaucratic with reporting and tracking, human capital professionals in the federal government are largely reduced to paper processors, focusing more on checking boxes than helping managers explore existing solutions for their workforce needs. Since it is unlikely much will change in the short term regarding the bureaucratic demands placed upon human capital professionals, more investments must be made in human capital offices and staff to assist managers. The offset for these investments is a better equipped and qualified workforce that provides a solid return on taxpayer investment.

Authorities like Title 6 and those like it that restrict merit principles, collective bargaining, appeals rights, and other systematic mechanisms serve only to chip away at the systematic protections that keep government honest, transparent, and free from criminal or undue political influence. These tenants are not negotiable, and we have seen in recent years attempts to blur the lines of best practices, and the impacts of doing so. Some continue to threaten the very foundations of our Democracy.

As a career member of the Senior Executive Service, former Executive Director of the Merit Systems Protection Board, and a three-time federal agency chief operating officer with direct responsibility for the success of the mission and workforce, I cannot see the need to expand Title 6 authority anywhere in government. In fact, I do not expect to see any benefit from the existing Title 6 authority that cannot be otherwise achieved using an existing authority(s) available in Title 5. It is a knee-jerk reaction to throw out an entire system of laws, such as Title 5, when an agency expresses frustration with an inability to properly staff its workforce or realize mission success. The problem is most likely more local than the agency may wish to admit. I have witnessed this phenomenon many times.

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