



**Statement of Anthony M. Reardon, National President
National Treasury Employees Union**

**Before the
Subcommittee on Regulatory Affairs and Federal Management
Senate Committee on Homeland Security and Governmental Affairs**

**On
“Improving Public Service: A Review of Recommendations Made by the National
Commission on Military, National, and Public Service”**

June 23, 2020

Chairman Lankford and Ranking Member Sinema, thank you for the opportunity to submit this statement to comment on the recommendations of the National Commission on Military, National, and Public Service and discuss how the government can build the most effective workforce, attract skilled and talented individuals, and engage federal employees throughout their careers. As National President of the National Treasury Employees Union (NTEU), I have the honor of leading a union that represents 150,000 federal employees across 33 federal agencies.

NTEU very much appreciates the time and effort that the Commission members put into the listening and assessments that resulted in this report. Now, more than ever, our country needs to embrace a “culture of service,” as the Commission states. Unfortunately, the current climate has made government service less appealing to many. Government shutdowns, unnecessary forced relocations and proposed agency closures, disparagement by government leaders who refer to federal employees as bureaucrats or swamp creatures, pay freezes, threatened cuts to employee benefits, elimination of key work-life balance benefits such as telework, and ongoing efforts to roll back employee collective bargaining and due process rights and protections all make it harder to recruit a new generation of civil servants and have led talented federal employees to leave federal service.

With an increasing number of federal employees eligible to retire, agencies must act to improve the recruitment and retention of federal employees. NTEU supports efforts to strengthen the Human Resources (HR) abilities in agencies and to promote their missions and federal service in general. However, we do have some concerns with a number of the recommendations from the commission related to changes to the hiring rules and benefits provided to the federal employees.

Reform Federal Hiring and Hiring Systems

NTEU believes in and strongly supports the Merit System Principles, which ensure that individuals are hired to work for the federal government based on merit, without regard to their race, age, gender, political views, or relationship with the hiring official. At the same time, NTEU recognizes that the process used to hire new employees can be onerous. However, in our experience, some of the things that make the process arduous are the complicated extra steps that agencies include in their hiring process due to long-standing practice or fear of future litigation rather than requirements directly tied to the statute. For example, over the years NTEU has had significant concerns about the slow pace of hiring Customs and Border Protection Officers (CBPOs), some of which was due to concerns over how the polygraph test was being administered. While CBP has been making progress in reducing CBPO vacancies, they still struggle with a lack of funding to address staffing shortfalls of approximately 2,200 as identified in their Workload Staffing Model.

Furthermore, despite ongoing congressional efforts to provide additional flexibilities to agencies to improve the hiring process and the time it takes to hire a new employee, agencies rarely use more than a few of the multiple tools available to them. That is why it is critical that any effort to improve the hiring process include sustained and comprehensive training for all agency Human Resources (HR) professionals and opportunities for HR professionals in various agencies, not just the Chief Human Capital Officers, to meet with each other and experts at the Office of Personnel Management (OPM) and share best practices and challenges they are facing.

NTEU also supports the Commission's proposals for agencies to provide clearer job descriptions and applications and the use of advanced assessment tools and proactive recruitment. The federal government must do more to improve recruitment and decrease the time to hire. Focusing on ways to make the process easier to hire prospective candidates and ensure that human resources professionals are trained, work closely with hiring managers, and have access to improved assessment tools is essential. While the recommendation for OPM to provide advanced assessment technology free of charge to other agencies would be popular to many, it is dependent on adequate congressional funding, which is one of the reasons OPM currently charges a fee to agencies for such assistance.

Regarding the proposals to establish and revitalize existing programs to build a pipeline for recent graduates to enter public service, NTEU has concerns about how such programs would be funded. While there is a serious lack of young people entering the federal government, given that federal employees have endured hiring freezes, pay freezes, and cuts to agency budgets for years, it is unclear how the Commission's pipeline programs could sustain funding in this current fiscal climate.

However, NTEU strongly opposes proposals to bypass the competitive hiring process and expand non-competitive selection which risks undermining hiring based on merit. We have strong concerns about the Commission's proposals that would allow agencies to hire former employees without competition who have only served in a limited role, without requiring enhanced skills or limitations on what grade/step the individual could be placed in. Doing so risks violation of merit principles. NTEU also opposes broadening direct hire authority in

situations when there is no shortage of qualified candidates. History has shown agencies to have abused such flexibility and using those programs as the only method of hiring, which undermined veterans' preference and civil service protections. For instance, previous versions of efforts to expand hiring for students and recent graduates (FCIP) were abolished after agencies 1) were found to use it as the almost exclusive means to hire employees due to the ability to avoid veterans' preference rules, 2) so narrowly targeted recruitment that vacancies were hard to find, and 3) used poor evaluation methods for selecting applicants. We fear similar problems with these proposals.

In addition, NTEU opposes provisions allowing agencies to extend term and temporary appointments for substantially longer than allowed under current regulations (2-year temps and 4-year terms respectively). This proposal heightens the risk that agencies will rely even more heavily on these short-term appointments, resulting in a reduction of full-time employees with institutional knowledge. These appointments deprive individuals of any type of job security and the benefits that they deserve. As an employer, the federal government should not be expanding its use of these type of limited employment opportunities that provide no benefits, limited career advancement possibilities, and no standing when an individual in one of these appointments applies for a full-time position. Many agencies have blatantly abused the current term and temp hiring authorities, with some individuals serving for years and years rotating from one temporary position to another without job security and without proper access to benefit programs. The recommendation from the Commission would also allow agency heads to noncompetitively fill a position in the competitive service, without public notice, for no more than 18 months when there is a "critical hiring need." We are concerned that as written, this term is undefined, and the provision does not require implementing regulations. This could result in the term being broadly interpreted by agencies and lead to hiring abuses and lack of uniformity across government. Moreover, disregarding public notice requirements will risk the application of merit-based hiring decisions.

Modernize veteran's preference

NTEU fully supports the application of veteran's preference in hiring decisions as part of our obligation to help those who have worked so hard to defend our nation and our freedom. However, we are concerned that the Commission's recommendation to give OPM responsibility to determine who qualifies as a veteran's preference eligible may vastly expand who is eligible which would diminish the benefit or severely restrict who is eligible, making it harder for veterans to get hired. In addition, changing the law so that a veteran's preference status can only be used as a tiebreaker or mandating that the preference expires over time would further diminish the protections given to those who have risked their lives for our nation.

Changing Federal Benefits

NTEU strongly opposes the Commission's recommendation to create a pilot program that would offer a cafeteria plan for certain benefits whereby employees could elect to be covered by the new benefits package instead of the current retirement and health benefit plans. While this may sound like a fair option to provide to federal employees, federal benefits have been under attack for the last ten years and we fear this will lead to an erosion of benefits for employees.

Pensions – a guaranteed income not dependent on the stock market—may not be as popular a benefit for employers in the private sector, but its fall from use is one of the leading contributors to the retirement insecurity in this country. The Federal Employee Retirement System (FERS) was developed in response to calls for more portability and options for investing retirement savings and provides employees with both a smaller annuity and investment in the Thrift Savings Plan (TSP).

Given this is a very popular benefit, NTEU is concerned that proposals to change FERS could impact recruitment and retention. According to the 2017 OPM Federal Benefits Survey, employees expressed that their TSP and FERS/CSRS benefits were extremely important to them (96.1% and 94.2% of respondents respectively). In fact, not only is the availability of a retirement annuity important to employees, the benefit has been shown to play a key role in recruiting and retaining them. In the 2017 survey, 78.3 percent of participants indicated that the availability of a retirement annuity through the FERS or CSRS influenced their decision to take a job with the federal government to a “great” or “moderate” extent, which is more than a six-point increase from the 2015 survey (72.2%). The trend is the same when looking at how FERS/CSRS impact retaining employees, with 87.9 percent of participants indicating that FERS/CSRS influenced their decision to remain with the federal government to a “great” or “moderate” extent, a three-point increase from 2015 (84.5%).

Efforts should be made to protect current benefits rather than reduce them, and to provide additional benefits that will help the federal government be more competitive, such as paid family leave. Continuous efforts to undermine or reduce employee benefits make it harder to recruit and retain talented employees who are committed to federal service.

Develop and Implement a New Personnel System

NTEU also strongly opposes the Commission’s recommendation to expand demonstration project authority for OPM and test a new personnel system. While we appreciate that it is tempting to throw out the current system and begin anew, overall, we believe that the General Schedule still works well. It provides a merit-based system and transparent policies and protections. It provides greater parity in pay between men and women than the private sector and takes into account the numerous locations where federal employees work and the unique jobs that they perform. While we agree that there are some problems with implementing the current authorities granted to federal agencies to recruit and hire skilled workers, Title 5 does not need to be overhauled to reach those goals. Furthermore, OPM was recently granted the ability to implement additional demonstration projects and it is unclear if they have been used or if others are needed. Given this administration’s efforts to eliminate employee rights and protections and cut employee pay and benefits, NTEU opposes efforts to grant the administration additional broad authority.

Thank you again for the opportunity to share with you our views on the Commission’s recommendations. Although we disagree on several proposals, we all share the same goal of ensuring that the federal government can recruit and retain skilled employees to serve the American people both now and in the future.