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STATEMENT BY

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BEFORE

**THE SUBCOMMITTEE ON MANAGEMENT, INVESTIGATIONS,
AND OVERSIGHT**

HOUSE COMMITTEE ON HOMELAND SECURITY

ON

PUTTING PEOPLE FIRST:

A WAY FORWARD FOR THE HOMELAND SECURITY WORKFORCE

MARCH 5, 2009

Mr. Chairman and Subcommittee Members: My name is John Gage, and I am the National President of the American Federation of Government Employees, AFL-CIO (AFGE). On behalf of the more than 600,000 federal and District of Columbia employees our union represents, including approximately 40,000 who work for the Department of Homeland Security (DHS), I thank you for the opportunity to testify today on the severe problems the Department faces regarding its workforce. I will address the Department's notorious low morale, its failures to match resources and mission, the controversial, wasteful, and ultimately abandoned DHS-specific human resources management system; the staffing shortages that have resulted from high attrition, misallocation of resources, and misguided budget priorities; and the Department's failure to fulfill its promises and requirements with regard to employee training. Finally, I will address the shameful fiasco known as PASS (performance, accountability and standards system), the so-called performance pay system that the Transportation Security Administration (TSA) implemented for Transportation Security Officers (TSOs) instead of placing them in the General Schedule with the rest of the federal workforce.

Introduction

Immediately after September 11, 2001, the Bush Administration took every opportunity to erode or eliminate civil service protections and collective bargaining rights for federal employees. After they reluctantly agreed that the terrorist attacks necessitated federalizing airport security functions, they insisted that the legislation not allow security screeners the rights and protections normally provided to federal employees. Consistent with this position, then Under Secretary of TSA Admiral James Loy issued a decision on January 8, 2003 which denied the right to collective bargaining to all airport security personnel.

In 2002, the Bush Administration reluctantly agreed to the creation of the Department of Homeland Security (DHS). However, the *quid pro quo* for that acquiescence was that federal employees who were transferred into the new Department would not be guaranteed the collective bargaining rights they had enjoyed since President Kennedy was in office. In addition, the Bush Administration insisted that the legislation which was eventually signed into law exempt the DHS from compliance with major chapters of Title 5 of the U.S. Code, including pay, classification, performance management, disciplinary actions and appeal rights, as well as collective bargaining rights. AFGE filed a lawsuit challenging the Department's final regulations. On August 12, 2005, Federal District Court Judge Rosemary Collyer ruled that major portions of the DHS regulations were illegal, and enjoined the labor relations and employee appeals systems. On June 27, 2006, the Court of Appeals essentially upheld her decision. Congress has since refused to appropriate funds for further implementation of the DHS personnel program. Congress should now go further and end this anti-federal worker, anti-union experiment by repealing the last vestiges of the DHS personnel program.

The establishment of DHS in 2002 combined 22 federal agencies that employed approximately 170,000 federal employees, 40,000 of whom are represented by AFGE. These employees now work for TSA, Border Patrol, Immigration and Customs Enforcement (ICE), Citizenship and Immigration Service (CIS), the Federal Emergency Management Agency (FEMA), the Federal Protective Service (FPS), the Coast Guard, and other bureaus and agencies of DHS.

Section 841 of the Homeland Security Authorization Act authorized the establishment of a new Human Resource Management System for the Department, and provided the Administration with the ability to modify Title 5 of the United States Code in each of the following areas: pay, classification, performance management, adverse (serious disciplinary) actions, appeals, and

labor-management relations. This broad authority – and its abuse – are the real reason why we are here today discussing the profound problems in DHS rather than celebrating any of its hoped-for successes.

Seven years after the establishment of DHS, after lawsuits and protests, the expenditure of large sums on contractors hired to invent elaborate new personnel systems, and the arrogant and politicized exercise of its extraordinary authorities with regard to the treatment of its workers, we can say unequivocally that giving the Secretary of DHS these authorities was an error. By rescinding plans for its new pay system, DHS has admitted the failure of that ill-conceived venture. We await the moment when the rest of DHS' personnel policies are likewise abandoned and the Department's workforce can focus, without political interference, on its national security mission.

Transportation Security Administration (TSA)

When Congress passed the Aviation Transportation Security Act (ATSA) that created TSA and thereby federalized the function of airport screening by creating the position of Transportation Security Officer (TSO), it made a pledge to the American public: TSA would hire "sufficient number of Federal screeners" and provide them with uniform training, good wages and benefits that would result in a highly-trained career workforce with low turnover to protect the flying public. The nation's TSOs have more than held up their end of the bargain: Since TSO jobs were federalized in November 2001, there has not been one act of aviation terrorism in the United States.

In return, the Bush Administration used a statutory footnote to place sole discretion over TSO workers' rights and workplace conditions in the hands of the TSA Administrator. Under the Bush Administration, TSA administrators prohibited such Title 5 rights and protections as the right to bargain collectively and to an exclusive bargaining representative, enforceable whistleblower protections, the Rehabilitation Act, the Civil Service Reform Act, the Fair Labor Standards Act, the Veterans Opportunity in Employment Act, the Uniformed Services Employment and Reemployment Rights Act, appeal rights to the Merit Systems Protection Board, the General Schedule salary scale and Office of Personnel Management adjudication regarding compensation and leave issues.

After seven years as serving as the country's first line of defense against aviation terrorism, immediate actions must be taken to grant TSOs the same fundamental workplace rights and protections as other federal workers. The quickest way for this to happen is for the new TSA administrator to (a) rescind the January 8, 2003 directive issued by then-TSA Administrator Loy that prohibits collective bargaining and the election of an exclusive representative for TSOs and (b) to apply Title 5 of the United States Code to TSOs. Second, Congress must enact legislation explicitly denying the TSA administrator the authority to deny union rights to TSOs, and explicitly placing them under Title 5 along with the rest of the federal workforce. Only then will these workers have full statutory protection against the whims of future administrations that might decide to pursue policies similar to the Bush Administration's that use "national security" as a pretext for anti-union animus. The statutory footnote granting the TSA administrator sole discretion to determine the collective bargaining rights and workplace protections afforded TSOs should be rescinded.

The first responders on September 11, 2001 -- firefighters, police officers and emergency medical technicians -- were among the most highly unionized workers in the country. Numerous

other law enforcement officers now working under DHS such as Border Patrol agents, Federal Protective Service officers, and Immigration and Customs Enforcement agents all have collective bargaining rights and full civil service protections. The Capitol Police have collective bargaining rights and a strong union contract. Screeners at two of the airports allowed to hire private screeners as part of the ATSA pilot program are currently working under collective bargaining agreements negotiated with TSA, but TSA has never claimed that their rights and the contracts that have been negotiated interfere with the agency's mission.

The denial of fundamental workplace rights is more than a litany of woes. Without the right to collective bargaining and to an exclusive bargaining representative via the Federal Service Labor-Management Relations Act, TSOs have no recourse when they are retaliated against for engaging in union activity. Despite President Obama's clearly stated preference that TSOs have union rights, there has been a marked increase in retaliation against AFGE's TSO activists at airports around the country – retaliation that includes termination. Local TSA management officials have sought to chill the free speech of TSOs by limiting when and where they can discuss AFGE's organizing efforts in violation of directives from TSA headquarters. Further, TSA managers have harassed and retaliated against AFGE TSO activists who have disclosed wrongdoing at their airports to their Members of Congress.

Thousands of soldiers honorably discharged from the military are denied veterans' preference by TSA for their service because they did not *retire* from the military. TSOs who return from deployment – including those deployed to combat areas in Iraq and Afghanistan are denied promotions and raises in violation of the Uniformed Services Employment and Reemployment Rights Act. Although the public and Congress both called for a professional, experienced, highly trained and well-compensated screener workforce under federalization, TSA's denial of fundamental workplace rights and protections has resulted in the government's highest attrition rate, an annual average in excess of 20 percent since 2003. Further, TSA's on-the-job injury rates rank among the highest in government, and TSOs are unable to comply with Congressionally-mandated training requirements due to understaffing at airports. Finally, TSOs are only 23% of the total DHS workforce, yet they account for 31% of the Department's new formal EEOC filings. These facts and figures speak for themselves, but clearly the agency is poorly managed, and the result is a workforce that is unable to devote its full time and energies to the agency's mission.

TSA managers have the right to appeal their *own* adverse personnel decisions to the Merit Systems Protection Board and have access to federal court, including for retaliation for whistleblowing, but rank-and-file TSOs do not. In fact, all employees at TSA with the exception of TSOs have the rights and protections of other federal employees in DHS. There is absolutely no connection between the denial of these rights and national security. The TSO personnel system is nothing more than a laboratory setting for the exploration of anti-worker sentiments. TSA has yet to offer a valid or even cogent explanation of how the denial of these rights makes the flying public safer.

Just as former TSA administrators have denied these very important rights and protections under the ATSA statutory note, the current or new TSA administrator under the Obama administration could grant the same rights and protections. But a future administration could revert to the Bush Administration's interpretation. That is why AFGE urges Congress to repeal the language in the statutory note, and grant TSOs full rights and protections under Title 5, including the grant of protection against pay discrimination by coverage under the General Schedule pay system.

Although TSOs are allowed to *join* unions because that is a Constitutional right, they are denied the opportunity to elect an exclusive collective bargaining representative and cannot file unfair labor practice charges with the Federal Labor Relations Authority when management wrongfully retaliates against them for engaging in union activities. As then-candidate Obama so directly stated in his October 20, 2008 letter to AFGE, "Collective bargaining agreements also provide an excellent structure to address issues such as a fair promotion system, the scheduling of overtime, shift rotation, health and safety improvements, parking, child care and public transportation subsidies. By addressing these day-to-day issues in a manner that is both functional and fair, I believe the unacceptably high attrition rate of TSOs will improve and more TSOs will remain on the job." We strongly agree with President Obama's assessment.

TSA's "Performance and Accountability Standards System" (PASS)

The PASS system at TSA has been an enormous failure. Among pay-for-performance schemes, PASS has the distinction of having been reformed numerous times over its brief life because even its architects recognize that it wastes time and resources. It also destroys morale, renders retention of productive and experienced workers next-to-impossible, and makes a mockery of serious efforts to improve performance, establish *esprit de corps*, or develop a culture wherein employees feel like valued members of a team.

PASS started out as a pay plan that was a system in name only, as there was little about it that was systematic or consistent. When TSOs were hired, they were told that they would be evaluated through a point system on the basis of skills acquired through agency training, personal traits, and on-the-job performance. There would be four rating possibilities: "role model," "exceeds standards," "meets standards," and "below standards." Those who obtained the highest rating were promised significant base pay increases and bonuses, those who met standards would receive only a bonus, and those who were rated "below standards" would get nothing. What ensued in the next couple of years turned the PASS into a joke. Workers often did not receive promised training and therefore could not qualify for the highest rating, supervisors failed to complete evaluation forms (not in every case because of malice or ineptitude, but because inadequate staffing forced them to spend their time supplementing TSO duties rather than filling out evaluation forms), and the criteria having to do with personal traits, such as "professional presence" and "integrity" were so susceptible to discrimination, subjectivity, and intimidation that few tried to meet them. Further, TSOs were evaluated on numerous criteria by employees of Lockheed-Martin, the contractor hired to train the employees. If Lockheed evaluators issue a failure rating, Lockheed makes more money retraining and then re-evaluating them, a conflict of interest that further undermines the integrity of the system.

In 2008, acknowledging failure, TSA changed PASS somewhat by creating one additional rating called "meets and exceeds standards" which carried a small base pay increase and a small bonus. They also reduced the number of times that supervisors had to evaluate TSOs from four times a year to twice a year, and let new employees work six months before testing them immediately on Standard Operating Procedure (SOP) skills. So-called "dual function TSOs" who screen both passengers and baggage, under the "reformed" PASS, were supposed to receive larger bonuses in subsequent years in recognition of the greater number of skills these two functions require. And supervisors were supposed to record PASS evaluation data electronically rather than in a two-step paper first, then electronic format. And finally, there were supposed to be improvements in the "image quizzes" because even TSA management admitted that the earlier tests were meaningless because of wide variations in standards.

One of the most egregious aspects of PASS is that employees of Lockheed-Martin, the contractor TSA hired to provide the X-ray equipment, are also hired by the agency to evaluate TSOs on their ability to use the X-ray equipment. This conflict of interest is wrong in and of itself. However, TSOs also are denied any means of appeal of the evaluations that Lockheed contractors report to an independent third party (such as the Merit Systems Protection Board, the EEOC, or the Government Accountability Office, forums available to their fellow federal employees). The result is a system that is inarguably flawed. (Despite TSA's assertions to the contrary, AFGE's TSO members report that Lockheed-Martin employees are still conducting evaluations.) TSOs report that supervisors who have never worked a shift with them have been assigned to perform their evaluations, and that there is virtually no accountability for management.

Another of the categories that is crucial to a TSO's performance evaluation and eligibility for pay raises and bonuses under PASS is the assignment of "collateral duties." These are functions outside the TSO's normal security screening responsibilities, such as mentoring new employees, working in the property recovery program, and working in the security program (where TSOs screen fellow TSOs for extra security). The opportunity to perform collateral duties adds additional points to a TSO's evaluation score under PASS; it can make the difference between receiving a decent raise and/or bonus or receiving none. But TSA has no program to coordinate the distribution of these opportunities. Collateral duty assignments are entirely at the discretion of individual managers, and there is absolutely no transparency or accountability regarding how these assignments are awarded. Despite their scores, TSOs who are injured are ineligible for *any* raises or bonuses under PASS, even if the injury was work-related.

The situation with respect to collateral duties is repeated in the area of "shift bidding". In 2008, TSOs who worked "split shifts" received eight percent pay increases, while those on regular shifts with identical PASS evaluations received raises varying between two and three percent. Managers have complete discretion in deciding which TSOs work which shifts, despite the fact that this decision has enormous consequences for an individual TSO's pay increase. Each Federal Security Director is given such wide discretion in determining shift bids that they can decide TSO shift assignments based on whatever criteria they want—often ignoring seniority—without violating management directives.

The obvious and necessary solution is to place TSOs into the General Schedule (GS) locality pay system and to abolish PASS. The GS system provides the opportunity for career development, market-based salary adjustments, and performance-based step increases. All changes to pay under the GS system reflect changes in pay in the private sector and in state and local governments, as calculated by the Department of Labor. It grades jobs and assigns salaries on the basis of objective criteria. The GS system is in every way superior to the unaccountable and subjective PASS and is what TSOs deserve to establish them once and for all as federal employees, rather than a second-tier federalized workforce with inferior pay and an inferior set of civil service protections.

The Federal Emergency Management Agency (FEMA)

The Federal Emergency Management Agency was created in 1979 by President Jimmy Carter to help protect American lives and property from the consequences of emergencies and disasters, whether natural or man-made. During the 1990's, under the leadership of James Lee Witt, FEMA became a model government agency whose staff had high morale and a keen sense of mission, and who met America's needs in disasters.

But after 2001, it was a different story. Under the Bush Administration, a succession of marginally qualified executives allowed FEMA's capabilities to deteriorate, and FEMA's budget and resources were cannibalized by the newly-created DHS. When Hurricane Katrina struck in 2005, FEMA was badly understaffed and, worse, was taking orders from Homeland Security specialists who knew little or nothing about disaster response and who seemed concerned mainly with protecting the Administration's public image. For example, a National Situation Report produced by FEMA staff gave FEMA and DHS executives a detailed warning about the impending storm *48 hours before Katrina hit*. After the Katrina fiasco, the incriminating report was deleted from FEMA's public website, and was later restored only after legal action was brought by outside groups who were aware of the report's existence.

After Katrina, everyone hoped FEMA would be reinvigorated, but instead the agency's downward spiral continued. Seeing opportunities for high-profile career advancement, numerous military, Coast Guard, and DHS executives moved into the top jobs at FEMA, pushing out more experienced emergency managers. Civil service hiring rules appear to have been bypassed or ignored to hire new people at all levels while career ladders for FEMA's long-time experienced staff became a thing of the past. Nowadays, military or Homeland Security experience (preferably in a white male) is highly valued at FEMA; Federal, State or local disaster management expertise is not.

The result has been chaos. Programs are cancelled and then re-started; offices are constantly being reorganized, then reorganized again; agency leadership continually activates emergency teams and brings in staff to work evenings, nights, and weekends (at a significant cost to the taxpayers) when there is little or no danger of a major disaster. The main focus now seems to be on public relations, not emergency management: During the 2007 California wildfires, a major priority was that all staff in the field wear FEMA hats, while at the same time FEMA executives tried to conceal the problem of hurricane victims who were living in formaldehyde-emitting trailers. FEMA Deputy Director Harvey Johnson went so far as to hold his now-infamous "phony press conference," one more example of trying to burnish FEMA's image while neglecting its mission.

FEMA's career staff have continued to suffer (or quit), not only from watching their agency collapse around them, but from the increasingly abusive and disorganized atmosphere within the agency itself. Staff complain that they cannot get job training, that they do not receive performance ratings, that in some cases they cannot even figure out who their boss is. Complaints of harassment and discrimination on the job have risen enormously, and FEMA has paid large sums of taxpayer dollars to settle these claims, including an allegation by a female employee that she was sexually assaulted in her office *by a FEMA executive*. One employee reported that a supervisor routinely referred to other employees in derogatory ways (using nicknames that exaggerated physical traits or employed sexual slang) during staff meetings, only to be told to ignore such remarks because that supervisor has "a tendency to be blunt." A female employee reports that she was shoved and threatened at work by a male employee, but her supervisor never reported the matter to FEMA Security. Another female employee who was receiving unwanted advances from a male employee was told that he could not be disciplined "because he is a good writer." But the employee who leaked the photos of Harvey Johnson's phony press conference that wound up in the *Washington Post* was fired for "poor job performance" even though he had received a pay raise for his job performance just a few months before. As you can imagine, the absence of basic professional decorum by agency leaders has had a profoundly negative effect on employee morale.

Every survey done at FEMA shows employee morale at rock-bottom. FEMA struggled to reach 95% staffing in 2007, but a year later staff levels were back down to 75%. In other words, people are quitting faster than they can be replaced, and many of those who remain are looking for new

jobs or planning to retire. Even FEMA's elite disaster managers, the Federal Coordinating Officers, continue to leave. Yet up until Inauguration Day, the agency's answer was more questionable hiring, promotions, realignments, and contracts.

Undoing the damage of the Bush years will take extraordinary effort. AFGE's FEMA Council has recommended to the Obama Administration the following:

- Closely examine all recent hiring, promotions, realignments, and contracts. Look especially closely at recently-awarded contracts and at jobs that were filled without being advertised openly, to determine if applicable laws have been followed.
- Review the qualifications and job performance of all GS-14's and above who have been brought into FEMA since 2005. Many of these individuals have little or no emergency management experience, and are locked into a military-style top-down approach that runs opposite to the collaborative nature of Federal-State-local emergency management. They are not the leaders we need at FEMA.
- Talk with FEMA employees and unions to find out what they think. The events listed here represent a small fraction of the personnel abuse that has occurred over the last eight years. There has been almost no dialogue between FEMA's political appointees and career staff throughout the Bush Administration's term. We are hopeful this will change under the Obama Administration.
- Ask how they fixed FEMA in 1993. When James Witt became FEMA Director in 1993, he inherited an agency that was in a shambles, as it is now. Within a year he turned it around. We believe that both Congress and the Administration should ask Mr. Witt and his Chief of Staff, Ms. Jane Bullock, how they accomplished this.

Border Security

Until Congress passes legislation to reform our immigration laws, AFGE's Border Patrol Agents recognize that their ability to provide true border security will be severely limited. The indifference, and at times, outright hostility on the part of management toward the views of the Border Patrol workforce during the previous administration has been costly both financially and in terms of effectiveness in carrying out the agency's mission. However, even before immigration reform legislation is passed, there is much that DHS can do to rebuild morale and reduce excessive attrition among the Border Patrol workforce. Border Patrol Agents need and deserve improvements in training, pay, and incentives to remain with the agency rather than take their law enforcement skills elsewhere.

There are numerous steps that the Border Patrol can take to ensure that its employees are treated like valuable assets, rather than expendable pawns. Many Border Patrol Agents are underpaid relative to their counterparts not only in federal law enforcement, but in state and local government as well. They are certainly overworked, and not adequately rewarded for their extra efforts. The agency's attrition numbers bear witness to the way Border Patrol Agents feel about this state of affairs. As you may know, 30 percent of Border Patrol Agents leave during their first 18 months on the job. This high attrition requires the agency to waste millions each year on perpetual recruiting and training to replace those who leave. Would it not make more sense to be selective in the hiring and screening process and provide real financial incentives to encourage trained and experienced employees to continue to serve?

We also believe that the Border Patrol has suffered under the organization structure that places it under the Bureau of Customs and Border Protection (CBP). Border Patrol should be an independent bureau within DHS, and granted full operational control of all its assets. That way, the mission of border security would not be compromised by having to compete within its own agency for resources and strategic focus.

Many of the needed reforms mentioned here are embodied in Title VI of H.R. 264, legislation introduced by Rep. Sheila Jackson Lee (D-TX). In general these provisions are intended to dramatically enhance mission effectiveness and ensure a stronger, safer nation. We urge the Subcommittee to incorporate the language of Title VI into its bill.

Finally, rather than waste billions of dollars each year on unproven technologies that are only marginally useful to Border Patrol Agents in the field, it would make far more sense to tailor the technologies to the work that they perform. The primary reason that SBInet has failed is that it was constructed around the flawed notion that technology can cost-effectively replace human initiative in law enforcement operations. While some of the technologies that have emerged from this program have proven useful, overall it has failed to deliver enough value to justify its continuation. Future efforts to provide technology need to be closely coordinated with the men and women who actually perform the work.

Immigration and Customs Enforcement (ICE)

The backbone of the workforce in Detention and Removal Operations is the Immigration Enforcement Agent (IEA). IEAs work at the nation's prisons identifying dangerous criminal aliens, they respond to calls for assistance from state and local law enforcement officers, they work with deportation officers conducting fugitive operations, they locate and apprehend criminal aliens who have slipped through the cracks, they prosecute aliens in federal courts, and they conduct worksite enforcement operations when requested.

These are all functions ICE agency management considers mission-critical. It should not be assumed that AFGE union members or other ICE employees are in support of the recent spate of employer raids. In making our case to consider an upgrade of the IEA position from GS-9 to GS-11, we urge the committee to keep this in mind. IEAs deserve an increase and are prepared to follow new policy initiatives with respect to such issues as worksite enforcement, such as the Obama Administration orders.

We have been told that approximately one third of all IEA jobs are vacant. ICE is competing with CBP and other federal agencies, and state and local agencies to attract educated and dedicated candidates for these critical positions. Until recently, ICE has been able to attract candidates from the ranks of Customs and Border Protection Officers (CBPO) because the IEA position provided law enforcement retirement coverage. Now that CBPOs have been granted law enforcement retirement coverage, that recruitment angle no longer exists. In fact, as the CBPO position, like the Border Patrol Agent, has a journey level grade of GS-11, that flow of candidates may reverse.

We are working with a bipartisan group of lawmakers in the House Immigration Reform Caucus to develop legislation to be introduced shortly. We will ask the committee to take a close look at this issue and consider incorporating the language into your new bill.

Federal Protective Service

Although DHS placed the Federal Protective Service (FPS) under Immigration and Customs Enforcement, federal building security is largely unrelated to the rest of the agency's homeland security functions. Both the DHS Inspector General and the Government Accountability Office (GAO) have published scathing reports about the failures of ICE to effectively manage this critical agency. In fact, ICE has sought actively to downgrade or otherwise diminish the role of FPS at every opportunity. It has proposed the elimination of on-the-ground police officers to patrol areas around federal buildings. These officers constitute a pro-active force to protect against potential terrorism and crime. ICE has also sought to reduce or freeze the budget of FPS while pursuing budget increases for every other division of the agency.

AFGE strongly supports removing FPS from ICE. There is no evidence that inclusion in this agency has been beneficial for federal building security, and there is much evidence that it has not. There is no administrative advantage in continuing with the current arrangement. FPS should be made an independent agency within DHS. In addition, Congress should provide funding so that the agency can meet the 2001 minimum standard of 1,200 boots-on-the-ground law enforcement officers. Further, Congress should direct the agency to establish a team of FPS personnel with substantial operational security and law enforcement experience, such as that used by the former FPS director in 2005, to determine the actual number of personnel required to provide effective protection to GSA facilities and those owned by other non-Defense Department agencies and departments.

Finally, AFGE strongly supported the provisions of S.3623, legislation introduced last year by Senator Lieberman, as part of his DHS authorization measure, to begin the process of reforming this agency. Although we were disappointed that the bill did not separate FPS from ICE, this is a vital reform we hope your Subcommittee will consider. We would also highlight a provision of the Senate bill that provides law enforcement retirement benefits to FPS Police Officers. This is a highly justifiable change given the requirements of the job, and a critical retention benefit to an agency that faces continuous attrition problems.

U.S. Citizenship and Immigration Services (CIS)

Citizenship and Immigration Services (CIS) is the remaining vestige of the Immigration and Naturalization Service, and changing its name and placing it under DHS solved none of the agency's long-standing problems. The recent fee increase helped the agency hire enough new adjudicators to begin reducing the backlog of cases. But in part because of the very high fees now charged, and in part because of the economic downturn, application receipts are in decline. Since the agency relies almost entirely on fee revenue for its operating costs, the new adjudicator positions are in danger of being eliminated.

The link between the agency's funding source and the treatment of its workforce may not be immediately apparent, but there is a direct connection. Because the agency's funding is so precarious and unpredictable, and is so disconnected from the actual costs of carrying out its mission, funding becomes an important factor in the way CIS employees are treated. Fee funding has institutionalized high turnover, extremely long-term temporary assignments, and wasted training dollars since long before DHS was created. We urge the Congress to provide funding for the agency so that it can invest in workforce stability, training, and new technology that will allow adjudicators not only to continue working to reduce the backlog, but to make sure that new backlogs do not develop.

The Coast Guard

Management in the Coast Guard embraced President Bush's privatization agenda with a vengeance. The Coast Guard reviewed for privatization more federal jobs than the rest of DHS put together. In the waning days of the Bush presidency, the Office of Management and Budget (OMB) authorized the Coast Guard to replace privatization reviews with so-called Business Process Re-engineering (BPR) studies. The "competitive sourcing" office that once focused exclusively on meeting Bush Administration privatization quotas is handling the BPR program. The most recent announcement regarding BPR is that it will be known as "Modernization" and 357 positions in the Coast Guard's Industrial Program, and 950 positions in its Base Support Services (BSS) program will be "Modernized."

In a context where there is trust and respect between management and labor, the prospect of re-engineering business processes would not be viewed with the level of skepticism and fear that our union feels within the Coast Guard. The fact that the Modernization initiative is being handled by the same office that so zealously pursued privatization is one reason why employees are approaching this initiative with trepidation. We have too much experience with contractors profiting at the expense of our nation's security to trust that BPR Modernization will not be a Trojan Horse filled with more contractors.

The Coast Guard excluded our union from all "pre-decisional" discussions that led to the announcement that it will establish four Logistic/Service Centers. These pre-decisional efforts have been ongoing for two years, during which time AFGE representatives were never invited to participate. The Coast Guard did, however, include its contractors in these pre-decisional activities. One example of the impact of the union's exclusion emerged at the briefing after the announcement of the Centers. The Coast Guard announced that it would detail 27 employees to a test product line. It had randomly selected the employees for the detail, without having asked for volunteers first, which has been the practice in the past. No position description or statement of duties for the detail had been prepared; nor was there any information on how the performance of the employees on detail would be evaluated. This type of exclusion and secrecy, and the agency's cavalier attitude toward employee concerns are the reasons for our skepticism toward the Modernization program.

Our first concern is that the Modernization effort not be used to undermine service to the public through an arbitrary reduction in the number of authorized positions. Inevitably, after reductions in Full Time Equivalents (FTE) undermine the agency's ability to fulfill its mission requirements, we are told that hiring contractors to fill the gap is the only alternative. The hiring of costly and unaccountable contractors subsequent to FTE cuts is a familiar and painful story. The Coast Guard's Modernization program has been described as A-76 without the competition. This means that the agency will undertake a review that has a pre-determined outcome. It will start with a requirement of reducing the number of jobs, and then "study" the work to determine which jobs to cut. A more valuable approach would be to examine whether each component has enough FTEs, given our responsibilities and obligations to the public. But that is not on the agenda.

We ask that the Congress instruct the Coast Guard that it should not undertake random FTE reductions under the guise of Modernization if such cuts will undermine the agency's ability to carry out its mission. We also ask that the agency not be permitted to exclude the costs of conducting these studies from its "savings" estimates. Hiring contractors to undertake the study and taking Coast Guard employees away from their regular duties imposes genuine costs on the agency. Further, since the Coast Guard has not demonstrated a willingness to do the right thing, we request that the agency be reminded of its bargaining obligations as it undertakes changes in the context of BPR.

Conclusion

However noble the intentions were in the creation of the Department of Homeland Security, the attitude of hostility and disdain for the Department's workforce was set when the Bush Administration insisted that the employee unions represented a national security threat. That calumny poisoned everything that followed.

The damage to employee morale from the denial of collective bargaining rights and the imposition of an atrociously unfair and unaccountable pay system on Transportation Security Officers are the first places to start in repairing the integrity of DHS as a federal employer. The bitterness of having to fight repeatedly in court for basic rights such as the opportunity to chose union representation, and have appeals of adverse actions and negative performance ratings heard by impartial third parties can be healed, but not without a serious commitment to change.

DHS is fortunate to have a large cadre of dedicated employees who possess a wealth of experience and creative energy and they are eager to give their all to fulfill the Department's crucial domestic security mission. They have done so under the most trying circumstances, and can do even more if the distraction of hostile management bent on the elimination of collective bargaining, the General Schedule pay system, and their civil service protections is ended. Add to that a commitment to obtaining the proper level of funding, an end to privatization reviews, and a fair and rational allocation of resources and the Department of Homeland Security will be second to none.

This concludes my statement. I will be happy to respond to any questions.