

Making Mission Matter: Building the Public Service around What Works

Improving Access to Effective Classification and Pay Systems for the 21st Century

- Enable agency flexibility to tailor pay, classification and rewards using already proven processes
- Expand use of Demonstration Project and Alternative Personnel Systems to all agencies (with OPM approval)
- Protect collective bargaining rights for these changes

Over the last few decades, there's been a remarkable paradox. Congress has given a handful of federal agencies flexibility to try new ways of hiring and paying their employees. We've learned a lot from these experiments about how they can help agencies better accomplish their missions.

But despite these successes, most agencies can't follow these lessons for success.

There's a very simple solution here that could have enormous impact: let's let everyone do what's been proven to work. Let's base this increased flexibility on improved accountability, measured as the agencies' results in the context of their mission.

This small legislative change would make a huge difference in government. There's been a reluctance to do what works—and agencies have been stuck with what doesn't. This is getting in the way of what we want government to do, because too much of government is mired in inside baseball.

The federal government is struggling to operate in the information age while managing its people using a framework established at a time automakers were selling Packards and Edsels. It was a great system then, when more than half of federal employees were at the GS-5 level or below. But it is woefully inadequate today.

There are two particular problems with the current system. First, the top-down, scientific management era—which fostered the mid-20th century statutes establishing the current civil service system for recruiting, hiring, and compensating the federal workforce—no longer fits a world of future work that includes expectations for the government to engage its employees in generating new ideas and solutions to meet mission objectives. Our pay system sends a contradictory message that performance does not matter as most employees' pay increases are awarded simply for being “on the rolls.”¹ Second, the current reliance on a position-centric human capital management system that is predicated on stable work requirements is a poor fit for the rapid changes in mission, work roles, required competencies, and labor markets that agencies experience today.

Quite simply, the General Schedule (GS) system for valuing work and administering pay has not kept up with the constantly changing nature of the government's 21st century mission and the methods agencies use to meet that mission. The impact of the GS system

¹ U.S. Office of Personnel Management, “A Fresh Start for Federal Pay: The Case for Modernization” (Washington DC: April 2002), <https://ourpublicservice.org/wp-content/uploads/2002/04/5f728681c9c408cb255f816a352a7d4f-1414080128.pdf>.

has been described as expecting managers and HR professionals to maneuver through natural and frequent changes in modern work design and labor markets while “wearing cement shoes.”

Experiments Have Proven the Effectiveness of Flexible Pay Systems

A significant breakthrough in solving these problems came with the Civil Service Reform Act of 1978, which permitted a waiver of some provisions of the basic civil service law to allow experimentation with alternative approaches that with merit system principles. For more than 40 years, agencies have been engaging in demonstration projects under Chapter 47 of Title 5, United States Code, Personnel Research Programs and Demonstration Projects to test alternatives to the personnel management policies established in Title 5.

When this demonstration authority was enacted in 1978, the personnel management systems authorized by Title 5 remained highly centralized. The concept of the demonstration project authority was simple: an alternative personnel management approach could be tested and, if successful, Title 5 would be amended to authorize its use government-wide, either as a new requirement for all agencies or as an alternative authority an agency could choose to use. Proven innovations like recruiting and retention bonuses and using category rating in hiring were initially tested as demonstration projects and have gone on to be legislated in the U.S. Code.

To date, no comprehensive legislative proposal addressing the federal white collar pay and classification system has gained traction, nor is any such proposal on the horizon.

Over time, Congress also granted several agencies independent authority to implement “Alternative Personnel Systems” (APSS). The majority of the Chapter 47 demonstration projects and APSS tested pay banding and simplifying position classification. In 2007, the Office of Personnel Management (OPM) published a comprehensive review documenting

An Example: NNSA Demonstration Project

The Department of Energy’s National Nuclear Security Administration (NNSA) began working with OPM in 2007 on an alternative pay system designed to attract and retain the best and brightest workers in the national security field. Known as “pay-banding,” this pay system focuses on pay-for-performance rather than increases based on longevity.

The pay system collapses the traditional 15 General Schedule pay grades into broad pay bands. It features comprehensive career paths covering professional, technical, administrative and support occupations with three or four pay bands in each career path.

The system allows NNSA managers to set higher pay for their employees through appointments, promotions, and performance evaluations. The goal is to improve recruitment efforts and motivate and retain key employees through faster pay progression for high-performing employees.

- Engineering and Scientific Career Path (NN) - All professional positions in the GS-800 engineering family and GS-1300 physical sciences family.
- Professional, Technical, and Administrative Career Path (NQ) - All OPM-recognized professional occupations (except GS-800 engineers and GS-1300 physical scientists) requiring positive education requirements, and all other subject-matter, business, and administrative occupations characterized by a traditional two-grade interval pattern of grade progression (i.e., GS-5/7/9/11).
- Nuclear Materials Courier Career Path (NV) – All positions in the GS-084 job series.
- Technician and Administrative Support Career Path (NU) – All technician, secretarial, assistant, and clerical occupations, and similar positions characterized by a traditional one grade interval pattern of grade progression (i.e., GS-5/6/7/8).

NOTE: On the basis of available evaluations, this project has been designated an “effective practice” in meeting its objectives.

the results of these experiments.² That report is now 15 years old, but the results remain important and underline the continuing value of these alternative personnel systems:

- Paying federal workers based on their performance can be successful, and it creates a stronger link to government’s mission than basing pay on how long employees have served.
- These systems require hard work but pay off by promoting a results-oriented performance culture.
- Under these alternative personal systems, managers and supervisors manage performance more effectively.
- These systems make it easier to recruit, hire, and retain a high-quality workforce.
- The alternative personnel systems help control payroll costs, but it’s important to keep a close eye on these costs as the systems expand.

In 2020, the RAND Corporation released an extensive review of the state of alternative personnel systems, which was described as an update to OPM’s 2007 Report. In this report, *Federal Civilian Workforce Hiring, Recruitment, and Related Compensation Practices for the Twenty-First Century: Review of Federal HR Demonstration Projects and Alternative Personnel Systems to Identify Best Practices and Lessons Learned*,³ the study team used a comprehensive list of demonstration projects and APSs to collect detailed background and evaluative information of program purposes, initiating guidance, outcomes, impacts, and revisions made to the programs over time.

RAND concluded that demonstration projects and APSs confirmed that “pay bands provide flexibilities in placement and discussion with [job] candidates on upward mobility.” The report also described how contribution-based compensation and appraisal systems are considered ‘best practices.’ and the value of “pay review and leveling” to ensure fair treatment of all employees through checks and balances in the performance management and payout processes.

These experiments raised an important issue in the relationship between the federal government and public employee unions. In certain respects, these unions consider key aspects of the existing General Schedule as constituting a *de facto* “bargaining agreement” that must be maintained. Union resistance to pay system changes can therefore complicate the use of pay banding systems and has limited the use of pay banding. The recommendation presented here uses the same protections for unions that apply to establishing demonstration projects. Furthermore, RAND found in its report that giving employees the opportunity to “opt in” to a demonstration project on an annual basis has led to increased participation over time.

² U.S. Office of Personnel Management, “Alternative Personnel Systems in the Federal Government: A Status Report on Demonstration Projects and Other Performance-Based Pay Systems,” (Washington DC: December 2007), [ADA476623.pdf \(dtic.mil\)](#).

³ RAND Corporation, “Federal Civilian Workforce Hiring, Recruitment, and Related Compensation Practices for the Twenty-First Century,” (2020), https://www.rand.org/pubs/research_reports/RR3168.html.

Expanding These Proven Results

The evidence that has accumulated over time points to the continuing value of these alternative personnel systems. The fundamental problem is that other agencies are not able to pick up and use the tools that have been proven to work elsewhere.

The Working Group recommends a fix for this challenge:

Amend the Civil Service Reform Act of 1978 to permit agencies to adopt previously tested and proven approaches for pay and classification—as well as other human capital areas—where experiments have been objectively evaluated and have produced positive results.

This recommendation could help agencies better achieve their missions by:

- simplifying pay and classification;
- adapting more quickly to changing labor markets;
- improving the recruitment and retention of critically needed workers; and
- providing greater rewards and incentives to employees for exceptional work.

This recommendation grants OPM the authority to review, approve, and monitor agency implementation of such changes. The proposal, detailed below, would add a new section to Chapter 47 of Title 5 to permit agencies to adopt successful, tested approaches to ensure that the entire government can benefit from the lessons of these demonstration projects. This expansion via administrative authority would be similar to the way direct hiring authorities have become available to agencies without requiring specific congressional action.

The Working Group disagrees with those who will argue that this proposal balkanizes the federal workforce by allowing agencies to tailor programs to their specific workforce requirements. This approach is moderate by design and conforms to the same framework that controls experimentation under Chapter 47. By maintaining the central guidelines for demonstration projects from Section 4703, core programs such as retirement and health and life insurance would remain in place, along with the merit system principles and rules against prohibited personnel practices. The variations that would occur from one agency to another would be driven by mission requirements and the labor markets in which the agencies compete. This epitomizes the tailored approach the National Academy of Public Administration (the Academy) recommended in its *No Time to Wait* white papers.⁴

Considerable variation across agencies already exists. The Department of Defense has special authority to develop a pay system for its acquisition workforce, which in design

⁴ National Academy of Public Administration, “No Time to Wait: Building a Public Service for the 21st Century, Part 1 and 2,” (Washington, D.C., July 2017 and September 2018), <https://napawash.org/academy-studies/no-time-to-wait-part-2-building-a-public-service-for-the-21st-century>.

and operation uses banding for pay and classification. Medical personnel in the Departments of Veterans Affairs, Defense, and Health and Human Services, and employees in the financial regulatory agencies, are already paid differently from budget analysts in the Office of Management and Budget. Numerous other examples show that alternatives to Title 5 systems like the General Schedule have already been allowed.

It is important to note, however, that some alternative personnel systems were implemented using exceedingly broad authority that expands well beyond the framework that Chapter 47 uses. For example, Congress explicitly allowed the financial regulatory agencies, which use funding sources other than appropriations, to establish new benefits and other features within their overall compensation systems, and they did so. Congress authorized a few other agencies to establish their personnel management systems “notwithstanding the provisions of Title 5 and other Federal personnel laws,” with very few exceptions. Notably some of those exceptions did not establish any requirement to implement a personnel management system consistent with the merit system principles. Hence the present proposal retains the Chapter 47 requirement that those principles may not be waived.

The Academy’s 2021 Independent Assessment of the federal Office of Personnel Management noted that OPM’s role as an enterprise human capital agency includes:⁵

- (a) setting broad government-wide federal human capital policy and oversight,
- (b) serving as the advocate and gatekeeper of the merit system, and
- (c) facilitating innovative practices across government agencies.

Past research has demonstrated the power of these innovations and experiments. This recommendation would allow agencies to meet the demands for “future of work” challenges using proven flexibilities, ensure oversight of proposed changes by OPM, and strengthen the link between employees’ pay and their contributions to make real the idea that “performance matters.” It also has great potential for improving the government’s performance by building on the lessons that have already accumulated over the years. It is time to open these opportunities to all federal agencies.

⁵ National Academy of Public Administration, “Elevating Human Capital: Reframing the U.S. Office of Personnel Management’s Leadership Imperative,” (Washington, D.C., March 2021), <https://napawash.org/academy-studies/united-states-office-of-personnel-management-independent-assessment>.

Legislative Proposal

The following table contains proposed language that could be inserted as a new section in Chapter 47, Title 5 of the U.S. Code, to implement this recommendation, alongside explanations of the meaning and impact of the proposed language.

<p style="text-align: center;">Improving Access to Effective Classification and Pay Systems for the 21st Century</p>	<p style="text-align: center;"><i>Notes and Commentary on the Proposed Legislative Language</i></p>
<p>In Chapter 47 of title 5, United States Code, Section 4706 is amended to read as follows:</p>	<p><i>A previous § 4706 was replaced and now contains no text. Currently labeled “Renumbered § 4705” in title 5, U.S. Code, it can be amended to establish this new section within Chapter 47.</i></p>
<p>“§ 4706. Permanent implementation of demonstration projects and alternative personnel systems.</p>	<p><i>Establishes a descriptive section title for this authority and program.</i></p>
<p>“(a) For the purpose of this section—</p>	<p><i>Standard introductory language for a subsection.</i></p>
<p>“(1) “demonstration project” means a demonstration project as defined in section 4701(4)⁶ and established under section 4703 of this chapter;</p>	<p><i>Uses the definition established in § 4701 for traditional OPM Chapter 47 demonstration projects to distinguish such projects from alternative personnel systems established under this new § 4706.</i></p>
<p>“(2) “alternative personnel system” means a personnel management system that—</p>	<p><i>Provides a broadly worded, standard definition for an alternative personnel system (APS).</i></p>
<p>“(A) uses personnel management policies and practices in the areas covered by section 4703(a)⁷ that are not otherwise authorized by the provisions of this title; and</p>	<p><i>With some limitations (see below), retains the personnel management areas where Chapter 47 demonstration projects may use policies not specifically authorized by title 5.</i></p>

⁶ 5 U.S. Code § 4701, [5 USC 4701: Definitions \(house.gov\)](#).

⁷ 5 U.S. Code § 4703, [5 USC 4703: Demonstration projects \(house.gov\)](#).

<p>“(B) conforms to appropriate requirements for demonstration projects established at section 4703(b) and relevant statutory notes and the prohibitions enumerated at section 4703(c)⁸, as set forth in implementing regulations for this section prescribed under paragraph (d)(1); and</p>	<p><i>Retains those requirements at § 4703(b) that would be relevant to permanent APSs, as well as the required design elements for pay-for-performance demonstration projects, from a statutory note under § 4701.</i></p> <p><i>Retains the prohibitions on waiving Title 5 provisions concerning the merit system principles & prohibited personnel practices; leave; and insurance and annuities.</i></p> <p><i>NOTE: Chapter 47’s limits on the number of demonstration projects or employees covered or a project’s duration will not apply to APSs.</i></p>
<p>“(3) “Director” means the Director of the Office of Personnel Management.</p>	
<p>“(b) The head of an agency may submit to the Director a request to establish, amend, extend, otherwise adapt, or terminate a permanent alternative personnel system.</p>	<p><i>Authorizes an agency head to initiate a request concerning a proposed or existing APS.</i></p>
<p>“(c) The Director is authorized to review and approve—</p>	<p><i>Establishes OPM’s authority to review and approve requests.</i></p>
<p>“(1) an agency request to convert an existing demonstration project within that agency to a permanent alternative personnel system with appropriate amendments to coverage;</p>	<p><i>An agency may request converting a Chapter 47 demonstration project to a permanent APS.</i></p>
<p>“(2) an agency request to establish a permanent alternative personnel system that is based on one or more successful demonstration projects or alternative personnel systems established in other organizational or occupational settings; and</p>	<p><i>An agency’s request to establish an APS may be derived or adapted in whole or in part based on existing projects and systems established under Chapter 47 or under some other, independent authority.</i></p>

⁸ Ibid.

<p>“(3) an agency request to amend, extend, otherwise adapt, or terminate an existing permanent alternative personnel system.</p>	<p><i>An agency may request modifying or terminating its APS.</i></p>
<p>“(d) The Director shall—</p>	<p><i>OPM’s responsibilities to support APS implementation.</i></p>
<p>“(1) prescribe regulations to carry out the purpose of this section, including requirements for submission, review, and approval of an agency’s plan to establish, extend, otherwise adapt, or terminate a permanent alternative personnel system;</p>	<p><i>OPM shall issue implementing regulations, including requirements for an agency’s plan to establish, implement, and evaluate an APS.</i></p>
<p>“(2) curate a directory of alternative personnel systems, including demonstration projects, that may be considered for extension or adoption by agencies in whole or in part after having been tested and evaluated for a sufficient period as determined by the Director, identifying the agency, the nature of the mission and workforce, policy alternatives that were tested, issues that arose, lessons learned, and other information that may be useful to develop and implement such alternative personnel systems in other agencies; and</p>	<p><i>OPM will curate existing successful demonstration projects and APSs to provide information agencies may use to pursue their own APSs. An agency may not request approval to adopt an APS that OPM has not curated.</i></p> <p><i>The required length of time for testing and evaluation can vary depending on the nature of the provision. E.g., APSs that involve annual pay decisions require several yearly cycles to establish their value, whereas a new recruiting method would not take so long.</i></p>
<p>“(3) provide guidance and requirements for submitting a plan for approval to establish, evaluate, extend, otherwise adapt, or terminate an alternative personnel system under this section.</p>	<p><i>Such requirements may include providing appropriate notice of the establishment and status of an APS and sharing evaluation information with OPM.</i></p>

<p>“(e) An alternative personnel system established under this authority may be terminated by the Director, or the agency, if either determines that the system creates a substantial hardship on, or is not in the best interests of, the public, the Federal Government, employees, or eligibles.</p>	<p><i>Subsection (e) replicates the language concerning traditional Chapter 47 demonstration projects that empowers OPM or an agency to terminate an APS when circumstances warrant.</i></p>
<p>“(f) Employees within a unit with respect to which a labor organization is accorded exclusive recognition under chapter 71 of this title shall not be included within any alternative personnel system under subsection (c) of this section—</p> <p>“(1) if the system would violate a collective bargaining agreement (as defined in section 7103(8)⁹ of this title) between the agency and the labor organization, unless there is another written agreement with respect to the project between the agency and the organization permitting the inclusion; or</p> <p>“(2) if the alternative personnel system is not covered by such a collective bargaining agreement, until there has been consultation or negotiation, as appropriate, by the agency with the labor organization.</p>	<p><i>Subsection (f) replicates the requirements for working with unions that apply to Chapter 47 demonstration projects.</i></p>
<p>“(g) Employees within any unit with respect to which a labor organization has not been accorded exclusive recognition under chapter 71 of this title shall not be included within any alternative personnel system under subsection (c) of this section unless there has been agency consultation regarding the project with the employees in the unit.</p>	<p><i>Subsection (g) replicates the requirements that apply to Chapter 47 demonstration projects for consulting with employees in situations where no labor organization has exclusive recognition.</i></p>

⁹ 5 U.S. Code § 7103, [5 USC 7103: Definitions; application \(house.gov\)](#).

<p>“(h) The Director may create such advisory or review boards as may be useful to facilitate the establishment, operation and evaluation of alternative personnel systems authorized under this section.</p>	<p><i>Such boards could include a CHCO Council Standing Committee or Working Group or an interagency group of HR leaders with experience designing and implementing existing APSs.</i></p>
<p>“(i) The Comptroller General shall from time to time review on a selected basis alternative personnel systems established under this section to determine the extent to which any such system meets the requirements of this section and shall periodically report its findings to the Director and the Congress.”</p>	<p><i>Patterned after a similar oversight requirement that applies to performance appraisal systems, this language establishes an oversight mechanism for the APS program.</i></p>

The Working Group believes that in the absence of any realistic prospect that Congress will address comprehensive pay and classification reform in the near term, this administrative solution will offer significant opportunities for agencies to improve and tailor their systems based on tested approaches and mission requirements.