Testimony of

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Chairman Connolly and Members of the Subcommittee:

Chairman Connolly, I would like to open with a sincere 'thank you' for your leadership in protecting Federal employees and ensuring that their best interests are always considered in the deliberations of this body.

Please note that the views and recommendations I offer in this testimony are my own. I will draw from my work at the U.S. Office of Personnel Management, my continued involvement in public administration organizations, and the experiences of the Federally employed scientists affiliated with the American Geophysical Union.

This Subcommittee, your Congressional colleagues and the Biden Administration have a rare opportunity to build consensus, develop a legislative agenda, and leverage your oversight authority to modernize the Federal human resources system. There is broad agreement that the personnel system constructed some forty years ago must be updated to ensure the Federal government:

- o has the right talent in the right jobs to deliver needed services to the American people in a high-quality and effective manner, free from political pressure and interference;
- o remains an employer of choice, able to attract a new generation of talent that fully reflects the diversity of our country;
- o can retain a diverse, qualified, and professional workforce through meaningful work and a compensation and benefits structure that meets the needs of today's workforce; and,
- o strives for excellence through accountability, metrics, data, and evidence.

Background

The calls to update the Federal personnel system have grown louder and more frequent over the last several years, yet any effort at modernization must be grounded in the Merit Principles and the impartial, non-partisan civil service that has served us so well and, in my view, has been a pillar of our nation's democracy.

The current personnel system is an outgrowth of the Civil Service Reform Act of 1978, but its principles and values go back some 138 years to the Pendleton Act, which required for the first time that Federal employment should be earned on the basis of merit and not political patronage.

A few years later in 1895, the most famous champion of the merit system, Theodore Roosevelt, wrote in *The Atlantic*:

> *People are going to realize that the civil service law is the most trenchant of weapons with which to fight political corruption, and the best device by which to secure good administration.*

That insight is as true today as it was in 1895. The U.S. Civil Service System is a model for state and local governments across the country and governments around the world. In fact, one of my proudest acts as OPM's Director was signing a Memorandum of Understanding between OPM and the now-named Ministry of Human Resources and Social Security of the People's Republic of China to exchange best practices on the administration and leadership of government workforces.

The merit system has stood the test of time in this country. Yet in 2015, we began to hear complaints about the "deep state" and calls to "drain the swamp." Over time, those calls turned into practices that often silenced the government's experts and distorted evidence and accepted science in the interest of advancing a political agenda. This led to a number of proposals that could have gutted the merit-based civil service system.

For example, public health experts were kept from discussing important COVID-19 information with the American people and, when the experts were allowed to speak, their advice was often contradicted, leaving the public uncertain about strategies that could have helped control the spread of the pandemic.

In another well-known example, the National Oceanographic and Atmospheric Administration's (NOAA) highly-respected prediction of the path of a hurricane – which trigger Federal, state and local emergency management measures - was altered by the stroke of a pen.

Further, the former Administration's suppression of scientific research and data in policymaking is well documented as was the ability of the scientific workforce to communicate transparently about critical scientific issues, leading to a strong admonition from the U.S. National Academy of Sciences and the National Academy of Medicine. Strong scientific integrity policies must be in place to allow Federally employed scientists to conduct their research, publish their work, and communicate their findings at scientific conferences unimpeded by political considerations.

Efforts to roll back the rights of Federal employees also included assaults on their collective bargaining rights. Since AFGE President Everett Kelley is a witness at this hearing, I will leave it to him to provide the details and needed remedies.

This drumbeat of anti-civil service rhetoric and action culminated in two misguided efforts by the previous Administration:

- The proposal to dismantle OPM and undermine the foundation of the merit system by reassigning human resources policy to the Executive Office of the President.

- Executive Order 13957, issued October 21, 2020, which created Schedule F, a new excepted service category in the Federal civil service. Targeted to employees in policy positions, the Executive Order would have stripped tens, and perhaps hundreds, of thousands of Federal employees of many of their civil service protections, making them subject to the whims of their politically appointed bosses. Further, many experts

believed this could allow political appointees to "burrow in" Schedule F positions at the end of their tenure.

Current Status and Recommendations

Within days of taking office, President Biden signed an Executive Order revoking Schedule F and restoring the union organizing and collective bargaining rights that had been eroded by prior Executive Orders.

The Biden Executive Order stated unequivocally, "The Federal Government should serve as a model employer."

That is a tall order. It will require legislation, administrative action, and appropriate levels of funding. The members of this Subcommittee will have an integral role in shaping the future Federal human resources system through its oversight, expertise, and legislative agenda.

The foundation for any modernization effort must be the merit system, which has served us well for many decades. In my view, another element of equal importance is an independent, high-functioning Office of Personnel Management.

As someone who spent eight years of her career at OPM and who has been a keen observer of the agency ever since, I recognize areas of the agency must improve. However, an independent agency specifically charged with protection of the merit system and the development of impartial, nonpartisan human resources policies and practices is vital to the fair and effective administration of programs across government and to protection of the civil service from political interference.

Once OPM independence is established, the question becomes, what and how does a contemporary human resources agency contribute to the achievement of agency missions across government?

One clear signal would be to designate the OPM Director as a member of the President's Cabinet. The person selected to make the Federal government a model employer would have access to leaders and decision-makers across government to hear of opportunities and challenges first-hand. The Director would also be in the room when issues are discussed and decisions made at the highest levels.

I had the privilege of Cabinet status during the Clinton Administration. That enabled me to raise the visibility of personnel matters to the highest levels of government and seek out opportunities to model practices that were ultimately adopted by the private sector, such as: expanding the use of sick leave to care for ailing family members rather than used solely for the Federal employee; and, requiring health insurers participating in the Federal Employees Health Benefits Program (FEHBP) to cost-effectively cover mental health issues at the same level as physical conditions.

As the Subcommittee considers the OPM of the future, it will be beneficial to consider the U.S. Government Accountability Office's (GAO) open recommendations for OPM. In April 2019, the GAO cited 18 priority recommendations that fall into the following seven areas:

- o Addressing Mission Critical Skills Gaps
- o Delivering Agencies' Missions in an Era of Constrained Resources
- o Improving the Federal Classification System
- o Making Hiring and Special Pay Authorities More Effective
- o Improving Enterprise Human Resource Integration (EHRI) Payroll Data
- o Addressing Employee Misconduct and Improving Performance Management
- o Strengthening Controls over IT Systems

I suggest launching a comprehensive assessment of the expertise and resources it would take to enable OPM to tackle these challenges and resolve them. Once the needs are identified, the Administration, this Subcommittee, and other stakeholders can work through prioritization, methods, resource allocation, and timelines.

Further, strategic human capital management has been on the GAO High-Risk List since 2001. An immediate step that would empower OPM to consider human resource matters across the entire government would be to pass legislation that gives OPM authority, responsibility, and accountability for all personnel systems, not only those enumerated in Title 5.

The Merit Systems Protection Board (MSPB) is another agency that is key to ensuring a fair workplace for Federal employees. The MSPB provides a venue for reviewing the legitimacy of a personnel action such as removals, suspensions, furloughs, and demotion, and a number of other adverse actions against an employee. In addition, the MSPB conducts important research and reviews regulations to determine any impacts on the merit system and prohibited personnel practices.

In spite of the implications on the careers of thousands of Federal employees, the MSPB has been without a quorum and unable to issue final decisions for four years, resulting in a backlog of more than 3,000 cases.

As of today, nominees for the Senate-confirmable appointments at OPM or MSPB have not been announced. I urge the Subcommittee to exercise its influence with the Administration, your colleagues in the Senate, and members of the Appropriations Committee to ensure that both these key agencies have the leadership in place to meet the challenges of the next several years, as well as the fiscal and staffing resources needed to meet their missions and today's challenges.

Protecting the merit system requires broad vigilance and multi-pronged actions of multiple Executive Branch agencies and key Congressional oversight committees such as this one. In the last months of the former Administration, we saw how an Executive Order creating a new

excepted service authority (Schedule F) can quickly undermine and threaten the merit system. As you know, an Executive Order can be issued without the usual Congressional consideration or opportunity for stakeholder and public comment. While this EO was rescinded with the stroke of the current President's pen, this Subcommittee should consider the damage that may have occurred to individual careers, agency missions, and the non-partisan nature of the Federal workforce had the Executive Order been issued earlier in the Administration. One must also consider how easy it would be for any President, current or future, to implement a comparable damaging policy.

I recommend this Subcommittee seek a permanent legislative fix to ensure future Administrations cannot undermine the merit system through such unilateral action. Legislation requiring Congressional approval of any new excepted service authorities is in order.

However, a strengthened merit system is only part of the Federal personnel modernization needed to meet today's societal and global challenges.

The Federal government must find a way to efficiently hire people with the skills, experience, and competencies needed for 21st Century work. Applicants at all career stages are needed to provide the range of expertise needed across government. Specifically, there is a need to replenish the scientific workforce, which has been woefully depleted as a result of policies forcing the physical move of programs to other parts of the country (such as at the Bureau of Land Management and the Department of Agriculture).

I urge the Subcommittee to focus on attracting two segments of the population that can provide important perspectives and energy to Federal service:

- o A diverse applicant pool at all pay grades that looks like America; and
- o Younger applicants at the early career stage, since presently there are more employees over age 60 than under 30 years of age.

OPM metrics for FY2018 indicate that the hiring process took an average of 98.3 days. Granted, that is an improvement over FY 2017's average of 105.8 days, yet qualitative research shows that many applicants give up on Federal employment during those more than three months, thereby possibly losing a desirable applicant and requiring the agency to repeat the resource-intensive recruitment process.

While not a comprehensive listing of what should be done to improve the Federal hiring experience, I urge the Subcommittee to consider the following actions that will trigger the process of improving Federal recruiting and hiring:

- o Invest in the modernization of USAJOBS.gov. The private sector, nonprofits, and other employers competing for talent with the Federal government have established online

systems that quickly and efficiently search for appropriate positions, match them with applicants, and provide an easy and rewarding user experience.
- o Write plain language vacancy announcements, especially for entry-level positions.
- o Carefully match skill and experience requirements with the needs of the vacancy.
- o Establish partnerships with community, tribal, and minority-serving academic institutions and union-sponsored apprenticeship programs to inform the students of Federal opportunities and ensure a continuous, diverse pipeline to fill government vacancies.
- o Leverage, and expand where permissible, internship programs and direct hire authorities to speed hiring.

Once hired, the new employee must see a clear path to success in their new position. Best practices include rigorous and structured onboarding and commits to the new employee's success through an inclusive workplace culture, matches them with mentors and a sponsor who can provide various perspectives on the job and program, provides funding for training and professional development, and affords opportunities for temporary assignments.

Further, I suggest the Subcommittee review aspects of the Federal government's compensation system. Developing a new pay system for the Federal workforce is a complex and lengthy undertaking, but I urge the Subcommittee to look into whether additional flexibilities can be targeted to hard-to-recruit occupations, agencies and programs with perpetually high vacancy rates, or geographic areas with high employment rates.

A key part of the overall compensation system are the benefits offered to Federal employees. I recommend the Subcommittee undertake a review of the employee support structure that has emerged in the wake of the COVID-19 pandemic. Questions to consider include:

- o Were Federal employees equipped to work from home? Did everyone have the appropriate IT equipment? Did they require additional training to do their jobs remotely?
- o Did a need emerge for additional childcare benefits to allow employees to complete their work satisfactorily?
- o Did employees have to use all available leave to care for family and neighbors who had contracted COVID-19? Do they need additional paid time off?
- o Did those employees required to report to their workplace need transportation or parking allowances to comply with CDC guidelines?

Constructing a personnel system for today is a complex challenge, even when its foundational elements go back more than a century. I have focused primarily on what can be accomplished in a relatively short amount of time, given the urgency of the societal challenges we face – the pandemic, the resulting employment and economic pain felt by many Americans, and the climate crisis which is causing irreparable harm to our species and our planet.

Thank you for the opportunity to be with you today. I look forward to answering your questions and working with you as you take on these important issues. ###