

## WHITE PAPER COMMENTS ON PROPOSED NATIONAL SECURITY PERSONAL MANAGEMENT SYSTEM (NSPS) REGULATIONS – RIN 3206-AK76/7090-AH82

[These comments are provided in response to the Monday, February 14, 2005 Federal Register/ Vol 70, No. 29/ Proposed Rules, Department of Defense (DoD) Office of Personnel Management (OPM), 5 CFR Chapter XCIX and Part 9901, National Security Personnel System (NSPS); Proposed Rule. Note: It is proposed herein that 10 to 20% (seat of pants estimate) of DoD materiel requirements, development and readiness costs could possibly be avoided IAW institution of more efficient DoD materiel requirements, development and readiness organization and by making progressive reform improvements in personnel management such that employees and managers both have more and clearer workplace rights. It is advocated that these savings should be reinserted into the DoD budget for use in increasing the number of soldiers and civilians and warfighting materiel systems available to soldiers. Defense transformation reform logically must include: continued acquisition reform, budget reform, appropriations reform, contracting reform, test and evaluation reform, along with personnel management reform. Obviously personnel management reform impacts all other types of reforms.

Additionally, given the compelling need to infuse additional funds into the DoD materiel development and readiness effort to both offset the draw down in capability resulting from the recent wars and continuing stabilization efforts and to position the USA as the globally dominate military capability, any cost reduction in the current DoD materiel development and readiness mission accomplishment could reasonably be reinvested in the needed systems and capabilities now being delayed as a result of the wars' extended impacts. These comments address the downside of NSPS; the upside will take care of itself. It is the downside of any personnel management scheme that breaks an organizations capability to achieve success. Although this White Paper is at times blunt, the interest in DoD personnel management improvement is very genuine. The many dedicated and loyal military and civilian personnel who have made this Nation militarily strong are empowered by workers' rights. Accordingly, any change IAW the new NSPS that diminishes those rights that assure intellectual freedom, is adverse to maintaining, sustaining, and improving on the Nation's military power.)

1. Case for Action comments: The Case for Action clearly states that "The system will retain the core values of the civil service system and allow employees to be paid and rewarded based on performance, innovation, and results. In addition, the system will provide employees with greater opportunities for career growth and mobility within the Department." The correctness of this statement is not validated by overall review of the proposed document. There are omissions in the rational for the need of the change. The Case for Action has many shortcomings and is incomplete. Policies advocated in the NSPS diminish intellectual freedom of employees as well as managers. The document apparently has errors of omission and commission as well as demonstrates a lack of in-depth understanding of the profound personnel management problems facing the DoD and the defense industrial complex as a whole. The following discussion attempts to bring into focus some areas of

concern and attempts to address problems and issues forthright: (Note; Bluntness and candor is apologized for in advance.)

- 1.1. The Department of Defense materiel requirements, development and readiness sectors have a history of dysfunction and layering precipitated out of years of piecemeal re-organizational history. Missions have been added or clarified by adding organizations to the overall DoD bureaucracy without reviewing the DoD from a systems of systems organizational model to identify and correct organizational inefficiencies. The DoD started out as simply the Army, a single organization that included the Navy. Today the United States of America (USA) has the Army, Navy, Marines, Air Force, and numerous other Agencies, organizations, special entities and the Defense Industries that all collectively make up the DoD mission capability and has become a fragmented conglomerate that cannot successfully keep track of performance status or costs. Even performance and costs auditing are conflicted with parochial budget line and congressional special interest protectionism. When it comes to systems materiel requirements, development and readiness, the Army, Navy, Marines, Air Force all have special operations forces, airplanes, ships, boats, vehicles, unmanned aerial vehicles, unmanned ground vehicles, and soon unmanned underwater vehicles. Some requirements have changed abruptly, for example: given Improvised Explosive Devices (IEDs), ground armor is no longer limited to just the Army and the Marines. Ship armor has long been a military need. The electrons versus armor gamble with such systems as Future Combat Systems has profound impact on budgets and development schedules if electrons and new materials do not prove effective or affordable. Today, C4ISR must be joint, yet success of achieving joint still has high risks. The point is that the DoD is an integrated force but the DoD materiel requirements, development and readiness capability remains disjoint by organizational design. The concepts of joint, interoperable, integrated, and net-centric are trying to be driven by a disjoint organization that is in reality organizationally inefficient and is joint divested to the extent that it has an insufficiently cohesive DoD materiel development and readiness community organizational structure. Even the requirements end of the materiel development and readiness business is inefficiently organized and flawed by the lack of acquisition reform. There has been a long and continuing history of performance and cost accountability shortcomings and the extraordinarily long struggle to secure control of materiel development and readiness has only been saved by the continued good will of the taxpayers who for the most part remain ignorant of the extreme fiscal waste and abuse of government funds. Many large development programs have moved through the research and development phase and then been discovered to be performance short, delivery long, and cost out of sight and so were later cancelled or program changed. The DoD is currently faced with a retirement based purge of technical expertise that is so profound in scope that such an event has never been coped with in past USA history. The retirement based purge will adversely impact the DoD and the defense industries that support its mission execution. This impending loss of technical expertise is not only a phenomenon facing the USA, it is also a phenomenon facing its World War II, Korean and Vietnam Wars era experienced allies and coalition partners' personnel. Unfortunately, the situation of

having a dysfunctional inefficient materiel development and readiness capability is not a new or recent phenomenon, but is in fact a continuing legacy and fact of DoD business reality. The DoD has become unimaginably dependent on the defense industries that now have in large part a monopoly on defense decision-making that is here to for unprecedented. Although significant effort has been made in acquisition reform, that task is far from over as evidenced by the continued difficulty in achieving joint and the daunting challenge of coping with the high risk associated with numerous critical programs. The historical management commitment to program management checks and balances is challenged if not will lacking. Acquisition reform remains plagued with the continued lack of single policy; e.g., policy is still not complete. As fact of fact, there exists a number of acquisition strategies that are so significantly different such as to allow "Manhattan Project" like acquisition strategies to co-exist with other systems developments that also are tailored such that the large scale integration contractor in lieu of the government serves largely as the overseer of the taxpayers' investment. Note: "Manhattan Project" management essentially allowed to contractor to use all fiscal and government resources in a concentrated effort led by the contractor to develop a capability. The "Manhattan Project" of World War II had a completion date. Today that same government delegated management approach is being used to develop systems which have no firm date for capabilities completion. Accordingly, actual cost may never be known. Over the last thirty years the DoD materiel development and readiness capability has increasingly become dependent on the defense industry for whole system management. "Manhattan Project" type large scale system integrators are increasingly depended on for overall management in lieu of whole system knowledgeable government employees. In the DoD's efforts to achieve joint through defense transformation, joint is driven more by executive committee decisions than it is by a dedicated single focused DoD materiel development and readiness command. Other than job protectionism, there is no reason that the DoD materiel development and readiness capability cannot be reorganized at the DoD level into a single command divorce of service parochialism, e.g., make one single DoD organization and get rid of separate development and readiness organizations for each force service. The same observation applies to the Users' representatives in the requirements establishment end of the defense development and readiness task. There is no credible reason that the DoD cannot establish a Users' representative led DoD Requirements Development Command that is charged with development of "all" DoD force service requirements. The paradox of DoD materiel development and readiness is that the defense industries can develop and build by specification any product for any service, but the governments' development and readiness structure is predominately uniquely force service focused with each service having a development and readiness capability that is not efficiently organized for requirements development or materiel technology, research, development and readiness of joint, interoperable, integrated and net-centric parts, components, subsystems, systems or systems of systems. The marrying of legacy US, allies, and coalition partners' capabilities with the new transformation planned capabilities is apparently not adequately planned and likely cannot be tested at system of system levels if by some stroke of sheer luck it could be funded. At top DoD and force

service executive levels, Joint Commanders attempt to drive joint requirements top down. Unfortunately, this process is inefficient and does not adequately cause a bottom up joint mentality to flow up the decision tree through the requirements and development and readiness sectors as bottom up joint focused products. Logically achieving bottom up joint focus requires continued use of the military in the requirements as well as the research, development, and readiness missions' execution. That does not serve to imply that all military forces employed in requirements development or materiel research development and readiness have to be in directive authority positions, however military knowledge is clearly a continuing need. It is illogical and flawed thinking to advocate complete removal of the military from the research, development and readiness missions. Evolutionary and spiral development mentality has somewhat run amuck. Extensive acquisition changes that have led to evolutionary and spiral developments have shown little schedule or fiscal control and the danger is that the rush to evolutionary and spiral developments can leave a trail of schedule delays, cost overruns, and reduced performance as tradeoffs are made to early field some capability at the expense of continued schedule delays and cost overruns for fielding later within system capabilities enhancements. The problem is less that evolutionary and spiral developments are fluid and more that the resources, policy, procedures, practice, processes and organizational structures are not adequately in place to achieve efficient and credible joint DoD requirements, and materiel research development and readiness management. The extensive and noble efforts being made to achieve joint capabilities are plagued with inefficiencies. With the introduction of numerous DoD commitments to "Manhattan Project" type management of large scale integration (LSI) contracts, the military has walked down the road of near total defense industry control of major system acquisitions. The empowerment of the defense industries lobbies is greater than the Colonel, Captain, or even GS 15 management authority in many cases. Many of these major defense industrial complex players are so interconnected via propriety rights ownership and defense mergers and corporate acquisitions to the point that real competition is an illusion. LSI contracts typically reap the benefit of free engineering support under the "one government/industry team" mentality wherein the one team is a team of government and contractor and subcontractor employees such that there is no effective or credible fiscal or technical metrics for measuring the contribution to LSI contractor profits that accrue from virtually free advice to the LSI contractor and its subcontractors from government employees and government independent support contractors. There is no known means of either auditing or measuring the government's contribution in these cases to defense industry profits. The fiscal and performance audit trail is at best swampy to the extent that even the best analyst and/or engineer are overwhelmed by the muck of confused status and condition. The defense industry is best envisioned as the next promotion step for military and/or civilian employees after completion of government service. The NSPS as currently written fails to acknowledge this fundamental reality.

- 1.2. To fully understand the Case for Action, it is important to understand that defense acquisition has become a game fraught with the task to deal with unrealistic and

unreasonable expectations. In order to get money a Program Manager (PM) and those associated with the new effort, including the defense contractors involved, have to get rid of requirements to reduce risks because any amount of funds they initially get will not be enough to develop the marketed capability. In this acquisition game one of the first task is to not call it a program until as late as possible so as to enter any milestone meeting in almost any level of effort. Game theory has dominated defense acquisition. Game theory provides the best strategy toward protection of the defense industry, reducing its risks, and increasing its profits. The quest to make all defense program efforts a team effort obviously compromises government employees' objectivity and independence. A team effort is a team product and therefore by US culture it is socially unacceptable for a member of a team to kibitz about the capability delivered or for that matter the cost increases, schedule slippages, or continued diminished requirements actually being scheduled for work accomplishment. Unfortunately the PM task is to reduce requirements and of those requirements that remain and put off until last the hard and expensive ones. Strategy?? Get decision-makers to buy into the program by doing the easier stuff first, get the contract so streamlined that the defense industry owns all the relevant data, get the Prime Contractor or Large Scale Integrator (LSI) in position for controlling property rights of any and all subcontractor and vendors contributions, stretch the time between identification of the need and delivery of each level of capability as long as possible to reduce risk and maximize profits, get the PM and follow on PMs compromised in their self interest of promotion by praising and other means, and keep lobby pressure on the Congress to support the program. The interesting observation is that in this acquisition game, employees that speak up internally against the inherent lack of ethics in this game are previewed as trouble-makers. The line between defense industry profit strategies and government stewardship can be very murky and put a government employee and/or defense industry employee in quick disfavor as being anti defense industry profits. The optimum way to checkmate such employees is to change the DoD personnel management system in a manner that allows easier employee removal and/or reassignment and minimizes traceability and auditability of the real cause for action. The NSPS, as proposed, serves this employee elimination and fear installation purpose well by increasing the ease of removal, reassignment, as well as changes in pay and position IAW a new approach that introduces essentially a spoils system by a new name; e.g., the NSPS. The downside of the NSPS as proposed must be seriously understood and changes made to promote government employees' and managers' intellectual freedom. It is intellectual freedom that is the glue of good stewardship. It is important to understand that there are currently three fundamental DoD acquisition games with different as well as fuzzy rules. The Missile Defense Agency (MDA), the Space Agency (SA), and Advanced Concept Technology Developments (ACTDS) are the primary acquisition games being played. Additionally, excessive contract streamlining has opened the door to other smaller and later development stage games as well. The DoD 5000 series is far from complete if stewardship is to become the driving force in defense acquisition. The playing field is almost monopolized by the major defense industries as a result of the many defense industry consolidations, integrated property and proprietary rights, and

the dependence on LSI contractors to pull together and run major programs for the government. The impact of the acquisition game rules on the stewardship minded employee is toward compromising intellectual freedom and installing fear to snuff out credible town meeting. The NSPS must change this trend and both provide protection to employees that speak out and encourage employees as well as managers to speak out in the interest of establishing the policies, procedures, processes and practices needed to institute improved stewardship within government as well as within the defense industries and their suppliers. Where competition needs increased and there is no other means to achieve a better competitive base, the government should become more directly involved in requirements establishment, technology, research, development and production. Obviously this means increasing the roles of government owned and operated research development and engineering commands and centers as well as depots and arsenals. There must be increases in established government independent development test and evaluation capabilities that are organizationally and fiscally independent of PMs. The serious problem of inadequate test range space and facilities must be solved. Embedded government independent test and evaluators must become part and parcel to government as well as defense industry efforts. None of these things can come into adequate and credible play in the defense acquisition game to assure stewardship unless intellectual freedom is instituted via the new NSPS. Intellectual freedom must be instituted and protected. The NSPS as proposed unfortunately serves counter to protection of intellectual freedom. This fundamental NSPS deficiency must be corrected and should be recognized literally in the Case for Action. This fundamental deficiency in defense acquisition game theory ethics is the simple explanation of why so many defense programs cost overrun, schedule slip, fail to live up to initial marketing expectations, and fail to deliver creditable products that meet the soldiers needs at a taxpayer affordable price. It is important to understand that it is not that government and/or defense industry employees are evil but rather that the work game they have to play in the real world of defense acquisition is void of actionable fair game rules. A competent NSPS can do much to correct this problem by institutionalizing and rewarding whistleblowing throughout the chain of command in government as well as the defense industry. This is best done by assuring protection of intellectual freedom throughout the personnel management policies, practices, procedures, and practices. The NSPS as written unfortunately fails in this quest. Change is critically needed in the NSPS if this nation is to remain the world's leading military power.

- 1.3. DoD performance and accountability deficiencies are well documented in numerous General Accounting Office Reports. Understanding the role that personnel management plays in this continuing trend and understanding how improvements in personnel management can alleviate these deficiencies must necessarily be part and parcel to the founding logic supporting changes to the existing civilian personnel management system. The currently proposed NSPS case for action does not specifically address the personnel management issues associated with DoD materiel requirements development and materiel development and readiness management challenges. For instance the differences in military personnel management and civilian personnel management needs within the DoD materiel development and

readiness mission execution task is not discussed in the NSPS. Interestingly, the military are managed and placed along the philosophy that a good man/woman can do anything. On the other hand in the civilian employee assignments, the premise apparently is that it takes extensive and orderly training and progressively responsible assignments to advance. The DoD has had a history of placing military leaders in positions for which they had little to no direct experience in conduct of the apparent belief that immersion is the best way to learn a business and attain Command experience. The military management philosophy that "rank is right" and complaints are insubordination, avoids a lot of error accountability being placed on a highly mobile and transient military workforce. Strong military leaders are not bound by this rank is right military management premise beyond the reason of good common sense. Strong military and civilian leaders are not the problem; weak ones are a different story and present the challenges to establishment of an NSPS that improves on the current personnel management system. This White Paper speaks to the downside of NSPS as currently proposed. Today, the DoD appears in process of, at least partially, restructuring and converting some Services' materiel development and readiness top leadership positions to civilian positions in recognition that many current military positions really do not have to be run strictly and directly by military leaders. This military versus civilian leadership ownership position management rights reality was obvious 30 years ago. Although the demilitarizing of many chief executive positions is now apparently desired by the DoD, there does not appear to be a clear NSPS strategy on how to make the defense transformation from near exclusive military top executive control to significantly increased government civilian control. The defense community at large is complex to the point that government is increasingly controlled by the defense industry. In some cases the defense industry actually evaluates government personnel performance. The fraud, waste, and abuse problems that grow over time are sometimes complex and start out as simple unwise acts associated with poor decisions. Managers like employees get trapped gradually as innocent or deliberate compromises mushroom into program decisions costing the taxpayer millions and reducing the actual capability the soldier receives in the end game of the acquisition process. The transformation of military positions into civilian positions must be done wisely. In the case of problem programs management authority transfer, move too fast in position conversion and the next military person assigned to the position can possibly inherit the bad decisions of the current military manager. Move too slow and the civilian replacement will inherit the problems. Interestingly, this is not as much a condemnation of military management as it is recognition that in many cases program management decisions were compromised by lack of availability of funds and human resources required to adequately manage programs. The defense materiel acquisition and management game is fraught with designed in pitfalls for errors. In some cases the sins of excessive contract acquisition streamlining are continuing to come to the forefront as DoD systems exhibit: increasing problems with low reliability, parts obsolescence, black box unsupportability, lack of technical data package ownership, increasing line replaceable parts exhibiting inventory cost growth, excessive software re-hosting costs, excessive subsystems and systems return because of No Evidence of Failure (NEOF) due to inadequate testability and

increasing demands for contractor support to the battlefield because systems were poorly designed for test and maintainability. These problems will continue to escalate maintenance and support cost and increase greatly as the services confront implementation of defense transformation as they attempt to sustain and upgrade legacy forces as required. Short term contract acquisition streamlining decisions used to sell new as well as sell support to older legacy programs at reduced costs have too often translated into long term unaffordability and performance decay. There are many General Accountability Office Reports that document the cost of poor decisions. The NSPS as proposed apparently does not address the failure to creditably manage issue. Additionally, there appears little NSPS recognition of the continued need for a military participation in development and readiness management as well as recognition of the need for military personnel filling rank and file positions to assure that military needs are clearly understood by the civilian workforce. It can be argued that there are enough retired military personnel that will work as civilians in the DoD to fill this need, but review of the NSPS indicates that little acknowledgement of the military human resource management need exists. There is apparently an overzealous belief that the defense industrial sector is more knowledgeable of soldier needs than the government and that the defense industrial sector will place soldiers' and taxpayers' interests above lucrative profits. Such DoD, force service, defense industry and Congressional thinking is inherently flawed. The government has gotten itself into a follow the defense industry lead as opposed to providing a consistently strong government leadership role in requirements definition, and materiel technology, research, development and readiness direction. Apparently the government has even gotten itself into a situation that performance based logistics (PBL) is the only way it can secure support because the government is simply not in control of technical data packages or systems configuration in many cases. Given that performance and accountability is already murky as discussed earlier, passing the decision authority baton from military leadership to civilian leadership should logically be run in parallel with establishment of credible and auditable performance and accountability. The NSPS as proposed appears to over look the need of establishing meaningful human performance evaluation criteria for managers as well as rank and file employees such that a meaningful path out of these complex management predicaments can be charted. Where does the NSPS provide for the employee to follow a performance evaluation audit path that leads to a political versus technical decision that causes the waste of billions of taxpayer dollars and leads to fielding poor capability to the soldier? The NSPS does not creditably address this complex human resource management and responsibility management chain problem. Interestingly, the military to civilian management transformation task can be compared to transforming from an authoritarian caste system structure to some other structure which is still in process of being defined and doing that transformation in the presence of lax and/or incomplete acquisition policy and in the presence of program control by corporate direction from the many DoD leaders as well as the Congress who have unfortunately either been ill-informed of the need for stronger government control or have been duped into the belief that the defense industry is self regulating in the ethical interest of taxpayer dollar frugality and assuring that the soldier really gets



systems that perform as initially marketed on a marketed delivery schedule. An NSPS that causes the illusion of improved control by removing workers' rights is just that, an illusion. In the worst case, removing workers' rights opens the door to government as well as corporate defense industry cover-up by silencing intellectual freedom. The military structure is fundamentally a "rank is right" management structure and in the military Officer Efficiency Evaluation Report (OEER) system of evaluation, a "single wrong word" can mean passover for promotion. Neither the military nor civilians are rewarded for taking risks. Too many fine military officers have been driven out of the military because they took risks or embarrassed higher level officers by candidly recognizing problems. Promotion success is rewarded to the military and/or civilian gamesmen/gameswomen that exhibit Teflon abilities and move before problems manifest politically on their watch. Letters of Praise /Commendation from the defense industry and/or higher ranking officers adds thickness to the Teflon and aid in future assignment promotion potential. Ideally, the new civilian management structure will be more quality circle based with real quality being built into products as well as real recognition of employees' and managers' actual contributions to mission success as well as improve decisions from the bottom up based on oversight guidance from the top. Interestingly, the current theme of the NSPS appears to be toward a kind of draconian removal of workers rights and toward establishment of old school military type personnel control versus civilian type quality control circle program control and personnel management. Although the "rank is right" mentality combined with ease of employee and/or manager removal/reassignment may have benefits for covering up fraud, waste and abuse; it is questionable if the removal of employee rights serves any productivity or stewardship benefit. Obviously, this NSPS regressive workers' rights theme is apparently in direct conflict with the concept of quality circles and opens wide the door for cover-up of poor management decisions. Ease of reassigning and/or RIPing people aids elimination of the decision audit trail. The NSPS must logically think very hard and understand the impacts of what is being actually currently proposed in affect by removing workers' rights.

- 1.4. The apparently draconian NSPS theme of workers' rights removal and de-unionization has profound implications for the defense industry as well as commercial businesses supporting that industry nationally as well as internationally. This is an interesting observation in that in reality the US government sets the trends in defense industry workers' rights and unionization since defense industry contract winners are typically bound to some degree to treatment of their workers in the manner allowed by US labor law and therefore personnel management practiced by the DoD. Apprehensively, as proposed, the NSPS appears to set the stage for future defense industry personnel management policies, procedures, processes and practices to negate both workers' rights as well as diminish the possibility as well as strength of unions and third party representatives that represent defense industry workers. The NSPS is largely void in policy, practices, procedures and practices promulgation as required to establish intellectual freedom and/or protect the whistleblower. As has been demonstrated within the DoD by many on many General Accountability Office Reports (GAO) and Inspector General (IG) Reports, DoD and defense industries

performance and cost accountability are already questionably successful. Reasonably, the elimination of workers' rights and union representation in the combined government and defense industry DoD materiel development and readiness sectors will serve well covering up of decision-making audit trails that lead to stewardship failures even more than is afforded by the current personnel management system which demonstratively allows reassignment of matrixed employees for any reason if those employees fall out of political favor as a result of their recognition of significant problems. Both military and civilian employees can make the career error of speaking up at the wrong time to the unfortunate displeasure of higher management or a defense contractor. Current government employee performance criteria often stress getting along with customers as well as the defense industry. Speaking up about serious problems is not a performance criterion. Demonstrating intellectual freedom in the interest of the taxpayer and the soldier are not performance criteria in either the military or civilian performance evaluation systems. The NSPS as written offers no guidance, policy or remedy to this profound issue of vision loss. Removing workers' rights is the first step toward lowering the probability of an employee or lower level manager speaking up and telling higher level leaders in a "rank or position is right" management structure that "rank or position" is actually wrong and a different decision should be made. Removing workers' rights allows greater ease in reassignment in order to remove the stewardship minded employee or manager from the chain of command that may prefer political decisions over technical decisions. Point being, the ability to hold credible "town square" debates diminishes as workers' rights are removed. The same point can be made in regard to managers' work place rights; e.g., as managements' workplace rights are removed at the manager as an employee personnel management prospective, lower level managers have less willingness to speak up in a "town square" with higher level managers. In the DoD requirements, research, development and readiness sectors, In-Process Reviews (IPRs), Critical Design Reviews (CDRs), Program Management Reviews (PRs), Test Readiness Reviews (TRRs), RED Team Reports, Test and Evaluation Reports (TERs), etc serve as the town square meetings. If employees and/or managers fear bringing up unpopular problem recognition issues that delay approvals and/or stretch schedules and/or cause cost overruns, or embarrass defense contractors, then those employees and/or managers run the risk of removal because they identified problems to the displeasure of the manager who seeks to look spotless in performance and/or program goals attainment. In fact of fact there is too much government PM/ Program Executive Officer (PEO) as well as defense industry corporate acceptance of a false "town square" mentality if it results in schedule attainment and contract payment. Defense Programs don't fail as reported so often in GAO and IG Reports unless there are multiple "town square" failures at many management layers over time. The government employee/manager/PM/PEO and contractor performance win-win can become a taxpayer and soldier lose-lose because the real taxpayer and the real soldier are not in the decision process and there is no fiscally independent government test and evaluator to referee acquisition program game execution integrity fouls. Woe is unto the poor Program manger (PM) that gets in the way of a defense industry contract payment; it can take less than a week for a defense industry lobbyist to get

an official ghost written question from a Congressman to the PM and/or the PEO expressing concerns about the delay. It takes even less time than that for a retired General Officer or consultant working for the defense industry and/or contractor to visit the PM or worse the Program Executive Office (PEO). With the removal of workers' rights, it will be easier to remove any employee or manager that airs dirty linen at the wrong time. It can be argued that both government and defense industry workers' intellectual freedom is removed as their workers' rights are removed. In 1968, Andrei Sakharov, the Soviet Union's most prominent scientist, wrote that scientific progress could not be disconnected from human freedom. Natan Sharansky recognized that the sense of freedom from fear exists when people feel free to go to a town square and express their views without fear. These sense of freedom concepts clearly apply to the accomplishment of good stewardship based work. The town square meetings of the requirements and development and readiness communities are too often already places for following the party line as opposed to expressing scientific views. The success of the DoD as materiel development and readiness organization is directly related to the permissibility of intellectual freedom. Removal of intellectual freedom by removing workers rights must logically be equated to diminished intellectual freedom to speak up about work problems and if concerns are ignored or snuffed out with a demand for quiet, eventual diminished military capability is the product; fraud, waste, and abuse follow. Unfortunately, one foot in the mud often begs another. Removing workers' rights removes intellectual freedom. Workers' rights are also human rights. It is important to understand workplace fears. Unwarranted removal of managers and/or employees because they speak up against flawed policies, practices, procedures, practices and/or decisions is comparable to economic and/or career assassination. For long time workers, removal is comparative to unexpected divorce. These must be the understandings and comparative viewpoint of the Union, the Arbitrator, the lawyer, and the Merit Protection Board, The Secretary, The Congress and The President if stewardship is to flourish. Unfortunately, the NSPS appears to be moving away from the acceptance of intellectual freedom and toward ease of removal for any reason. Apprehensively, the NSPS is moving away from wise personnel management practice and toward a more dictatorial philosophy of work. The NSPS, as currently written, apparently is oblivious to the adverse impact of diminished workers' rights on overall DoD and defense industry workforces' productivity, stewardship, performance and cost accountability. The President has come out strong in regard to advancing freedom and liberty IAW democracy. He has advocated the use of the "town hall" of Natan Sharansky's test in which citizens of a country should be able to speak up without fear. This town square test of Nathan Sharansky must also apply to the DoD workforce and its workers' rights if good stewardship prevails. The President has indicated that he is in favor of human and civil rights. Interestingly the true test of a democracy or for that matter a kingdom is the list of human and civil rights in the workplace as well as in private life. Arguably, most people spend their waking lives at work or in the process of work; their intellectual freedom is reflected in their pride in employment and in the products and services they provide as individuals and as teams. Logically human and civil rights based intellectual freedom does not stop in the workplace but is in fact of fact necessary if work is a fair game of purposeful

goals and objectives. Yet, IAW the NSPS, as currently written, there is a clear theme, intent, and direction that diminishes the (human) workers' rights and power of representation (civil rights) of workers as well as managers. Intellectual freedom has long been recognized as a requirement for requirements definition, technology, research and development and readiness mission attainment and therefore scientific advancement. As indicated herein, it appears to that the NSPS is not only taking many personnel management steps backward and toward regressive workers rights, it is in actuality on an unwise course in personnel management that will likely usurp and silence the very creativity and stewardship desperately needed in the government and defense industry requirements definition, technology, research and development and readiness sectors of the DoD to support the military and to assure credible DoD materiel development and readiness capabilities that really work in the military environment get to the soldier. The DoD already has a significant problem with contracting out to the point that government managers and technical personnel are spread too thin to assure attainment of credible performance and cost accountability over many of those contracted efforts. Defense industries are in many cases running the government and evaluation government employees performance. Removing government workers' rights of managers and employees conflicts this situation even more in that an offending employee (rank and file employee or manager) who speaks up against fraud, waste and/or abuse can be more easily be RIF'ed or reassigned for potentially any overt or covert reason. It is demonstrated that managers already can simply reassign or conduct Reduction in Force (RIF) based on reorganization and there is no audit trail associated with the real reason for RIF or reassignment. By management policy and agreement in some government organizations, matrixed government employees can already be removed and reassigned for any reason. It is already easy for any defense contractor to fire on the spot any defense industry employee for any reason. Removing a squeaking bearing (employee) in a large corporation wheel (organization) is amazingly easy and there is no responsive ethics audit trail. File cabinets can be easily emptied and contents shredded and computer files can be erased to the point of destruction. That does not however mean that such policies and agreements are wise or serve the best interest of the taxpayer. If improved stewardship and productivity and performance are DoD goals of the NSPS, then both workers' and managers' rights need to be both increased, stratified, and clarified in regard to intent and justification of all personnel actions as relates to specific occupations and grade levels without compromise to intellectual freedom. The key to improved productivity is laying out clear and fair work game rules that optimize intellectual freedom in the interest of mission accomplishment, productivity and stewardship. Apprehensively, the current downside theme of the NSPS is in direct conflict with the President's promotion of what is in effect intellectual freedom. Apprehensively, the framers of the current NSPS believe in fear based management more than intellectual freedom based management. Reasonably, concept review and personnel management philosophy change are in order if NSPS is to be structured in support of the President's commitment to intellectual freedom.

- 1.5. The NSPS does not recognize that work is a game. The current civilian personnel management system does not recognize that work is a game. Both systems appear to

ignore this workplace reality and neither seeks to establish policies, procedures processes, and practices to make the workplace a fair game with workers' and managers' work game rules and referees. The DoD requirements and materiel development and readiness workplaces are complex workplaces that have fundamentally two different personnel management systems; e.g. the military system and the civilian system. The military system is fundamentally a rank is right system in which a good man or woman can do anything. Military personnel can be placed as the military personnel system so directs and is negotiated by the military involved. Training can come after placement. The civilian system of promotion and placement is supposed to be based on merit, experience, career planning, and training. Both systems are supposed to have mission need justified resource requirements. Apprehensively, little attention has been given to understanding the complex personnel management aspects of the DoD materiel requirements definition, development and readiness workplace communities as military/civilian/contractor layered personnel management systems. Interestingly, the real world is that the DoD materiel development and readiness sectors' personnel management is an overlaying of military personnel management policies over government civilian and defense industry personnel management policies. If for instance questionable military direction is given, then it is "rank-is-right", and the civilian employees are to unquestionably carry out that direction. If the direction is sound, there is no problem. On the other hand if the direction is flawed it is a different story since rank remains right by definition. In that case, civilian managers are tasked to either find out a way to minimize the damage that can be caused by executing the questionable direction or simply cave in and execute the questionable direction regardless of the negative impact of the direction. Employees are to unquestionably conduct the task of accomplishing the direction. If the employee or a lower ranking manager complains about bad direction, then they risk the chance of removal and personal disgrace as they are erroneously labeled as uncooperative or insubordinate or worse. Obviously, when direction is good, there should be no problems and no question of direction. The real challenge of NSPS policy is how well the new personnel management copes with the downside of poor management decisions. When management direction is questionable, the game of achieving credible stewardship is challenging if not impossible. The issue put herein on the NSPS decision-table is, "What is the wise personnel management path and policies that lay out clearly what workers' and managers' rights protect employees' and managers' from unwarranted action in such a way that stewardship and productivity are achieved in the best interest of the taxpayer and the soldier when poor and/or fraud, waste, and abuse are the logical outcomes of following the poor direction of superiors?" The NSPS's apparent answer to the question is "No workers' rights". Logically that is the wrong answer. NSPS is apparently not well thought out in the interest of the taxpayer and the soldier as currently proposed. Remember there is no third party referee that calls foul or throws down flags when rules of the work game are broken. This is especially true in the real work world when the work rules vary from acquisition system to system, organization to organization, and are fussy, inconsistent, and not clearly promulgated or thought out in the interest of the taxpayer and/or the soldier on a case by case basis. Acquisition program workers' and managers' rules vary by major program.

As examples, there are different acquisition and contract game rules for the Missile Defense Agency (MDA), the Space Agency (SA), and Advanced Concept Technology Developments (ACTDS). Employees as well as managers are held to different work standards and operate under different work rules. The NSPS appears oblivious to this fact of fact. Standards for fiscal and contract control and performance success test and evaluation and capabilities proof are different in each case. Government employee and manager roles vary in relation to large scale integration contractors' employees and managers roles. Performance and accountability is inconsistently measured. If a ball team worked under the currently proposed NSPS nebulous and draconian work rules there would be many game delays and the coach would want to, if not, fire half the team before the game is over and then blame the total failure on the players. The coach and owner of the team could reassign any player to any position and void at will any negotiated player/team financial agreement at any time. Players would be usurped of the intellectual freedom to read the offense or defense during play and capitalize on weaknesses for the benefit of winning. NSPS, as proposed, needs serious refocus if this nation is to remain strong and adapt to the changing threat. Establishing intellectual freedom assurance is a mandatory requirement if NSPS is to serve as the model personnel management system for the strongest world military power. One of the interesting things about following orders in the DoD requirements definition, research, development and readiness sectors is that in the game of DoD materiel requirements definition, research, development and readiness work, blame for errors and/or failures generally flows to the bottom. The game of work accomplishment has few if any game rules that are recognized as game rules. The only thing close to game rules is workers' rights and they are often unclear in actual application from acquisition program to acquisition program. In one contract the government employee can be directed and evaluated by a contractor, and in another contract the roles can be reversed. Grievances are typically a contest between a single employee and the management institution at large; unfortunately there is little real sustained personnel office leadership that is focused on judgment of the competency of work rules and there is no unbiased referee that calls out fouls. The NSPS as proposed apparently seeks to minimize if not remove those few real workers' rights that currently exist and also remove creditable and timely third party review and judgment of personnel actions. One of the major failings of the current civilian personnel system is that both workers' and managers' rights as employees are not clearly defined as related to making the workplace a fair game. The Civilian Personnel Office is placed in the unfortunate position of being the fox (managements' representative) that guards the chickens (workers' rights of employees). A lot of chickens get eaten. For instance, one of the age old problems that all government employees face is the problem of being abandoned. Perhaps that is an inadequate choice of words but it does describe what fundamentally happens when a rank and file employee or for that matter a supervisor or manager above that supervisor is directed to do something that is unwise or worse fundamentally wrong. What happens in the human system of personnel management policy layering is that the concepts of "rank or position is right" and if everyone does not fall in line with what the directing authority directs (be it wise, questionable or plain stupid), then those employees (rank and file and/or

managers) are considered as insubordinate and can be abandoned (sidelined) or fired or reassigned. Who did what to who for what real purpose can take a year to figure out. Regrettably productivity declines for an unspecified period of time. The institution of work has no real time referee to call a foul in regard to the questionable or plain stupid directive or order. Unnecessary delays occur in the game of work for no creditable purpose. In ball games a foul is called and everyone gets back to the game almost instantly; the game of work is different and adversely and profoundly impacts work. The NSPS apparently is oblivious to the need for work referees and work game rules. Point being that it is not the wise decisions that have to be worried about, but is rather the questionable or plain stupid decisions that cost the taxpayer and the soldier in lost fiscal availability, extended schedule capabilities deliveries, and lost performance and accountability. Anyone that has worked for a long period in Federal employment knows that employees as well as managers are on occasion tasked to implement bad direction and people below the directing authority are put in the loyalty and subordinate quagmire such that speaking up about poor direction will result in removal, reassignment, abandonment, or worse termination. One would think that as long as people are human this phenomenon will occur, so the challenge is to figure out some way to improve both military and civilian personnel management such a matter that professional descent in the interest of mission accomplishment is not viewed as insubordination. Reasonably, if the workplace poor decision descender (rank and file employee or manager) is provided increased protection from being abandoned, reassigned, or removed for flagging poor stewardship, performance and cost accountability problems, then DoD materiel requirements definition and research, development and readiness missions accomplishment should improve along with improved systems performance IAW realistic cost and schedule and delivered systems and systems of systems that actually work in the military environment to meet the soldiers' and the nations' protection needs.. Perhaps one way to do that would be to establish a decision review board composed of a number of independent experts that could arbitrate or at least rule on decision complaints in a mission accomplishment positive manner. Ideally once intellectual freedom is recognized as relates to its role in productivity and stewardship improvements, there will be little need for the independent decision complaint and evaluation board because most issues will be worked to resolution in quality circle employee and manager teams as appropriate. Obviously, the establishment of unionization of employees and well as managers is a possible remedy directed at establishment of a third party decision and stewardship issues "referee" capability within the DoD. Reasonably workforce elected "referees" makes sense. This thought is not directed at usurping managements' right to make competent decisions, but rather focused on finding an honorable approach to dealing with the phenomenon of poor decisions enforced by a culture of "rank or position is right" and an institutionalized code of silence when on occasion it is obvious that rank or position was wrong and the code of silence should be broken in the interest of the taxpayer and the soldier. The concept herein deals with the reality that the workplace is in reality a game and that there are few if any rules focused on making the work in that workplace a fair game. What is interesting about this fair work to productivity improvement phenomenon is that verbal direction to get rid of someone

can occur at many levels above the individual being removed and in that case the fair workplace is an illusion at best. As a result of management layering the decision audit trail can be covertly and/or covertly lost and the real reason for abandonment, reassignment, or removal of the offending person can be overtly and/or covertly obscured. When the offending employee or manager is removed, dissemination of false truths can aid cover-up of what actually happened. There are many ways and means of eliminating an offending rank and file employee or manager. As a top manager, it is easy to direct lower level managers to intensify scrutiny and assignments or travel requirements on any lower level individual and eventually render any person ineffective. It takes time, but anyone can be eliminated if someone high enough wants someone removed for any reason. It is demonstrated that in the DOD materiel development and readiness community that employees can be reassigned for any reason IAW the current personnel systems' execution. The "referee" concept discussed herein in which work is recognized as a game is based in the observation of human gamesmanship reality that exists in the DoD materiel requirements definition and research, development and readiness work scene. There are even management theories in which it is recognized that the successful "Gamesman" is on the fast path for advancement. "Organizational Man" is more often than not, not as competitive a career development ladder. As a simple example: the DoD and the Federal government have gone to RESUMIX as an automated means to select people for positions. The insider and swift to find the key words needed to play the promotion candidate game, simply biases his/her resume' toward those key words in order to get selected. Another game in preferred promotion schemes is the temporary assignment of a preferred candidate into a position to bias pre-selection IAW prequalification and increase resume selection probability. Anyone that has participated in selection panels, observes apparent fast track individuals that have the key words and know how to play the promotion game. It is increasingly part of the Federal selection game culture. What is interesting to note is that RESUMIX is the prime selection scheme for initial selection of all government employees and plays a huge part in promotion opportunity qualification and realized opportunities. Also it is important to observe that the DoD has delegated this RESUMX effort to industry and that industry is allowed to keep their software proprietary and their screening routines secret from the government. Apprehensively, RESUMX is a flawed personnel selection concept that has official personnel office blessing but is questionably, at best, working even if it is highly lauded. With thousands of applicants, personnel selection and evaluation is difficult using any method to narrow down the field of candidates. Civilian Personnel Office has never had the resources to retain full time selection panelist that are professionally qualified and trained in each career field as selection evaluators. The RESUMX contractors' process is not credibly auditable and is sufficiently covert in processes that no credible board of merit or ethics review is in full time functional place to assure candidate selection and referral fairness. Even RESUMX data file size allowances could be argued as age discriminatory because older workers reasonably have more experience to list, but are file size limited. Race based favoritism is also another area that can be argued if modern genetic science is used to verify that all humans can be traced to African genetic roots. As another example of



a different personnel management nature, one could look at many of the non-technically supportable political decisions that have major program direction impact on major system acquisitions. One does not have to go very deeply into this "referee needed" observation to recognize how often questionable management decisions, in absence of workers game rules and referees, result in millions upon millions of taxpayer dollars lost without performance and cost accountability or for that matter an accurate decision audit trail into the political decision process. Managers as well as employees need workers' rights protection and protection of intellectual freedom if stewardship is made mainstream. A simple review of cost and schedule overruns of major and minor DoD acquisitions is readily available (to the extent that it is accountable and auditable) in GAO and IG Reports and numerous IG investigations. Unfortunately some efforts are challenged to prove performance and cost accountability. Review of the NSPS did not indicate that the new system advocated has come to grip with what are really an age old problems in human systems management; e.g. refereeing credible selection and placement and credible decision making based on intellectual freedom.

- 1.6. The decision review board as proposed in the NSPS does not address these complex fair workplace issues because these issues quickly get conflicted with management rights. In fact it could be argued that the NSPS as proposed actually makes it easier to cover-up bad decisions as well as employee and manager abuse by higher levels of management by making it easier to quickly remove rank and file employees as well as managers that don't cooperate and obediently implement poor decisions. The timeline for executing adverse actions in a manner that allows near immediate removal of the unappreciated employee or manager is very short IAW the proposed NSPS. In the defense industrial complex, the issue of no workplace game rules, workers' rights, or referees, sets the stage for corporate profiteering at the expense of the taxpayer, the soldier, and the Nation's real defense capability. Reasonably, the decision review board concept would have to be responsive, open, and not penalty based, otherwise neither employees nor managers would respect any rulings. Obviously not all decisions need be subject to decision review board approval; an emergency evacuation order serves as an example.
- 1.7. The profound question is "Do the Office of Personnel Management and the DoD materiel requirements definition and research, development and readiness communities see the big picture of what is being advocated by the NSPS as written?" As another question it could be asked, "Which defense industry contractors and contractors' lobby personnel were involved in actual preparation of the NSPS document with what agenda?" Perhaps a different intellectual freedom based approach would better serve the nation? What happens if all workplace human and civil rights are listed for each: (1) rank and file workers and (2) managers; and (3) it is recognized that all work requires some amount of creativity and ingenuity to maximize performance. What happens if the fair game personnel management concept herein is broken into two or more groupings, e.g. (a) technology, research, and development, and (b) manufacturing, production, and support and then work place rights are matrixed in lists across that matrix in such a manner that intellectual

freedom as established in workers' rights and unionization rights (the workplace referee or its equivalent civil rights of workers) is optimized in pursuit of productivity and stewardship as reflected in the NSPS system? What happens if workers' and managers' rights are listed for government military and civilian workers and managers, government independent support contractors, defense industry workers and managers and decisions are made in regard to how it is best to empower the collective workforce such that intellectual freedom serves the taxpayers' frugality and assures providing the soldier weapon systems that perform in the military environment and really meet the needs of the soldiers? What changes then must be made to the NSPS?

- 1.8. One of the main problems in the current personnel management system is the lack of workplace rules and referees seated in a two layered personnel management system; e.g., military and civilian. Apprehensively, proceeding the way the NSPS is being currently structured simply means that work will increasingly become a game with both no referee and no rules and the intellectual freedom absolutely necessary for military products development success will be eliminated. Apparently, this is regressive workers' rights path of NSPS as proposed is the wrong path to precede. What needs to occur to establish better stewardship is for the work place to get more workers rights (managers and rank and file employees) and more intellectual freedom and an orderly path to dissent such that dissent is and can be managed in logical quality circle forums as associated with the type of work being conducted and the needs of both managers and rank and file employees as required to optimize performance and cost accountability. The stewardship issues of intellectual freedom and rank and file employees' and managers' rights are profound. What would apparently aid performance and cost accountability greatly would be unionization of both managers and rank and file employees to assure a referee capability and establishing clear work game rules in terms of rank and file employees and managers' rights as opposed to removing rank and file employees' rights and their unions' representation rights. It is really a matter of determining the wisest course in personnel management that guarantees workplace human and civil rights in the interest of both productivity and stewardship such that intellectual freedom and fair workplace game rules and referees are protected. This observation is not evidently recognized in the NSPS as written. In fact the strategy of implementation supports overlooking this profound issue in that the 30-30-30 strategy gives insufficient time to conduct a fresh look at the whole phenomenon of personnel management in regard to increasing stewardship and productivity through increasing both workers' and managers' rights and providing detailed clarifications of rules based on situation and intent.
- 1.9. The Case for Action is incomplete as discussed herein. Ineffectively defining the Case for Action leads to a failed foundation for reinventing NSPS. Apparently there is a rush to establish an NSPS based on fear of attack and urgency of National need. Apprehensively the approach being taken is along the lines of removing workers' rights and moving personnel management toward the practices of the Soviet Union prior to the cold war and toward the personnel practices of pre World War II

Germany. The strategy of: (1) insufficient detail, (2) rapid approval, (3) repression of the work force, (3) workers' rights removal, (4) the removal of civil rights to legal representation, and (5) the obvious excessively little time to work comments to conclusion and resolve complaints or come up with a more mature NSPS due to the need to do something quickly due to the national emergency driven by a war without predicted end, does little more than capitalize on irrational fear as a means to establish regressive personnel management in the work place.

- 1.10. The DoD, although fortunate to have some of the most dedicated employees in the world, is fraught with fraud, waste, and abuse that runs the course of many administrations. The DoD is ineffectively and inefficiently organized in the requirements, development and readiness communities. Although acquisition reform has been instituted, it is far from complete. Requirements, budget, authorization, contracting, procurement, legal, test and evaluation and organizational reform have not even been put effectively on the Congressional table or within public visible decision-table discussions within the DoD. The real meat and bones issues surrounding credible acquisition reform are apparently not prioritized for reformation or transformation. Baby boom retirements are going to rapidly deplete the DoD, the defense industries, and the Allies and Coalition partners military scientific and engineering expertise and this will place increasing pressure on political as opposed to scientific decision-making at all levels of government. As an example, the only actual experienced nuclear bomb development and design scientists and engineers are already retired. There is not enough fiscal allocation or range space/availability to test current complex systems and systems of systems that are being developed. Systems and systems of systems are commonly being sent first to the battlefield before planned capabilities completion and/or in many cases before any operational tests. Training is dependent too often on simulations because range safety and availability will not allow actual systems tactical training. Some defense systems are completely, for all practical purposes, under the total control of defense contractors and exhibit: infirm requirements, sliding right capability deliverable schedules, increasing cost, diminished capabilities delivered, questionable capabilities delivered, and no clear path for performance or cost accountability. Costs cannot even be credibly audited in some significant national wealth investments. There has been an increasing laxness in actual DoD contract control as a result of instituting overly permissive contract streamlining over many administrations. Quality, reliability and performance have all suffered. Logistic support as well as supply and maintenance have increasingly become contracted out in the battlefield. Select defense industry and commercial representatives have even convinced many in the DoD acquisition process and the Congress that commercial off-the-shelf (COTS) equipment is equal to military specified equipment requirements on a one-to-one basis when this is clearly false as a "applies-to-all" premise. There is no single DoD Independent Test and Evaluator that is fiscally independent or organizationally embedded into the technical decision tree continuously throughout the materiel life cycle. The DoD is still plagued with a continued stovepipe mentality that protects and encourages service parochialism. The DoD exhibits a critical organizational need for increased centralization, decreased dysfunctionality, and increased

executive accountability. Logically, the NSPS as written, protects the inefficiencies and decay of the DoD's ability to meet the National need in this conflicted and challenging time. The NSPS as written does not acknowledge these profound problems or offer a roadmap to problems resolution, and the text, as proposed, apprehensively offers little well thought out personnel management solution.

- 1.11. These comments are not to encourage jumping on some liberal or conservative horse and riding off screaming, but do encourage some serious review and comment in regard to more open and fair personnel management approaches to driving truth and integrity into the decision-making process that cannot in reality be separated from performance assessment and the penalties associated with low performance and the praise associated with good performance. It has to be concluded that stewardship of the complex DoD and its world wide defense industrial complex and interests is very daunting. Interestingly, as the largest single employer in the world, the DoD could do much toward establishment of human and civil rights through an NSPS that clearly is progressive in increasing workers' rights. Human and civil rights are the metrics of democracy and are reflected in workers' rights as a fact of employment not only in the government employee aspects of the DoD but also in the national and international business aspects of defense industry and its commercial suppliers at world wide prospectus. Logically if the DoD has progressive workers' and managers' rights focused on stewardship, cost and performance accountability as well as setting the stage for human and civil rights in the workforce, then those human workers' rights personnel management practices advocated by the DoD are and will be encouraged throughout the entire national and international business world. Reasonably, if peace and security are objectives of the DoD along with delivering on DoD mission success, then encouragement by example the establishment of workers' rights is eminently important to overall mission execution. Obviously, removing workers' rights serves negative purpose and acts counter to improved stewardship and mission accomplishment. As currently written, the NSPS as initially proposed, appears to serve only one purpose; e.g., aiding cover up of fraud, waste, and abuse. Given that this Nation has won wars and survived in hard and good times with the current personnel management system, even given all its inefficiencies and flaws, one has to ask, "Who really believes that going back to the Industrial Age of no workers rights and non-unionization will advance DoD mission success?" It must be recognized that Unions do not exist when management is fair and recognizes workers' needs. Meaningful pride in productivity, organizational credibility, fair pay for performance, good working conditions, opportunity for advancement, health benefits, life insurance, pride in service to the employer and the nation are workers' issues. Failing to recognize the human and civil values of dedicated workers by removing workers' rights is a questionable strategy and flawed toward fixing the problems promulgated as reasons for the NSPS as proposed. Was it the intent of the National Defense Authorization Act (public Law 108-136, November 24, 2003) to promote regressive workers' rights and the elimination of credible unionization and/or workers and managers' representation?

1.12 The NSPS does not establish a clear line between training and experience that provides metrics for either advancement or accomplishment of career goals. Although the DoD is blessed with numerous education opportunities, cross service training and interagency training programs are lacking. The NSPS apparently offers little policy or insight into how to unify the force structure through personnel management policies, practices, processes or procedures. The whole concept of mentoring apparently is void of creditable and sustainable policy or planning. Unfortunately training, although blessed with the classes of an empire, has little focus on training employees or managers in the exercise of intellectual freedom. The military does well in training for loyalty and obedience and command, but the civilian sector is not as focused in these skills development. Both military and civilian sectors would be better served in adding courses to develop intellectual freedom and how to apply it with the purpose of serving the taxpayer and the soldier. The relationship of performance evaluation to training and work accomplished is not apparently based on knowledge attained, applied, or demonstrated as related to the courage to advance improvements in interest of the taxpayer and the soldier in the presence of personal financial and career risks. The NSPS does little to set rational policy, practices, procedures or processes in place to aid managers in steering lower level managers and employees along the most productive career path on an individual by individual case by case basis.

1.13 The NSPS apparently does not recognize the need for personnel management of contractors and government employees as teams, yet it is clear that teaming is occurring and performance and accountability is intertwined in many different manners from major defense acquisition program to major defense acquisition program. This observation has great depth in that integrated teaming is occurring in all phases of the acquisition cycle as well as on the battlefield. Given that NSPS policies, practices, procedures and processes will spread throughout the DoD government, defense industry, and international defense communities as related to work with allies and coalition partners, the NSPS is remiss if its advocated personnel management policies, procedures, process, and practices are not well thought out across the board for negative and/or positive impact on intellectual freedom and its connection top assuring productivity and improving security.

1.14 This review acknowledges that there is significant management layering and organizational inefficiencies within the DoD. The impact of the phenomenomum on pay banding is profound. There is just so much money to pay employees and award performance. When excessive management layering is allowed, obviously there is less money for employee pay as well as for acquisition of products and services. Accordingly organizational reform should be put on the DoD and congressional decision table. Jumping into a NSPS without fully understanding the re-organizational need is not wise. Obviously some changes could be profound given the complexity of the need for more DoD organizational efficiency. Logically, some issues will have to be worked with Congress. Some public law will likely need change if greater cost control is achieved. The NSPS logically should provide a personnel management ways and means to provide employee incentives to tackle

difficult politically unpopular problems in the interest of the soldier and the taxpayer. Reasonably, employees as well as managers can be easily discouraged from taking on unpopular causes if those causes expose fraud, waste and abuse and bring negative visibility to the programs in which they work.

1.15. The NSPS is silent on special personnel management needs for wartime surges in employment.

1.16. The NSPS is silent on the personnel management needs associated with the Army's transformation into smaller, lighter and more mobile self sustaining forces. Given the increasing dependency of the force services on in battlefield dependence on government civilians and defense contractors, personnel management policies must logically be developed for these demanding employment conditions. A "no workers' rights" policy is bankrupt of human and civil reasoning and legal precedence.

2. The following are general comments to the NSPS.

2.1 One of the age old problems that all employees face is the problem of being abandoned. Perhaps that is an inadequate choice of words but it does describe what fundamentally happens when a rank and file employee or for that matter a supervisor or manager above that supervisor is directed to do something that is unwise or worse fundamentally wrong. What happens in the human system of layering is that the concept of "rank or position is right" is imposed and if everyone does not fall in line with what the directing authority directs, then people are considered as insubordinate. It is more often street wise to "fence the management judge" if someone wants to be favored. The institution of work has no referee to call a foul nor does it have clear rules of the game of work. Anyone that has worked for a long period in Federal employment knows that employees (military as well as civilian) as well as managers (military as well, as civilian) are on occasion tasked to implement bad direction and people below the directing authority are put in the loyalty and subordinate role such that speaking up about poor direction will result in disfavor, removal or worse termination. One would think that as long as people are human this phenomenon will occur, so the challenge is to figure out some way to improve the NSPS in such a matter that professional descent in the interest of mission accomplishment is not viewed as insubordination. Perhaps one way to do that would be to establish a decision review board composed of a number of independent experts that could arbitrate or at least rule on decision complaints in a mission accomplishment positive manner. This thought is not directed at usurping management's right to make competent decisions, but rather focused on finding an honorable approach to dealing with the phenomenon of poor decisions enforced by a culture of rank or position is right when on occasion it is obvious that rank or position was wrong. Simple observation over many years in government prompts recognition that well in excess of 90% of all decisions do not have to be made that minute, that day or that week so there is time to credibly consider other points of view, even if those points of view are out of the box. What is interesting about this phenomenon is that verbal direction to get rid of someone who does not follow the mainstream thought can occur at many levels above the

individual being removed. Power plays and ego trips in decision-making are not unique to private industry. As a result of layering and "rank is right" allegiance when poor decisions are made, the decision audit trail can be lost. As a manager it is easy to intensify scrutiny and assignments or travel requirements on any individual and render any person ineffective. It takes time but anyone can be eliminated if someone high enough wants someone removed. Reorganizations have always been a management tool for personnel placement and replacement. The "referee" concept in which work is recognized as a game is based in the observation of human game reality in the work scene. There are even management theories in which it is recognized that the successful "Gamesman" is on the fast path for advancement. Organizational man/woman is more often than not less competitive than the gamesman that has chameleon and Teflon skills. As a simple example: the DoD and the Federal government have gone to RESUMIX as an automated means to initially select people for positions. The insider and swift to find the key words needed to play the promotion candidate game, simply biases his/her resume' toward those key words in order to get initially selected on the candidate list. Anyone that has sat in panels observes apparent fast track individuals that have the key words and know how to play the promotion game. It is part of the Federal culture. As another example: one could look at many of the non-technically supportable political decisions that have major program direction impact on major system acquisitions. One does not have to go very deeply into this "referee needed" observation to recognize how often questionable decisions result in millions of taxpayer dollars lost without accountability or for that matter a decision audit trail.

Review of the NSPS did not indicate that the new system advocated has come to grip with what are really an age old problems in human systems management; e.g. refereeing credible selection and placement and credible decision making.

The review board as proposed in the NSPS does not address this complex issue because the issue quickly gets conflicted with management rights. In fact it could be argued that the NSPS as proposed actually makes it easier to cover up bad decisions as well as employee and manager abuse by higher levels of management by making it easier to quickly remove rank and file employees as well as managers that don't cooperate and implement poor decisions as directed by higher authority. The timeline for executing adverse actions in a manner that allows near immediate removal of the unappreciated employee or manager is very short. Apprehensively, there is no NSPS comment provided that would cause anyone to believe that human resources or training for participation in or management of what would logically be numerous review boards has been planned, appropriated, resourced or fiscally allotted. There appears no sizing of the potential workload to carry out this review board function. Perhaps the theory of the NSPS as proposed is that since there are no workers' rights the review board can be near zero resourced?

As another interesting observation, "Who really seriously believes that a workforce void of workers' rights can be less subject to malcontent that promotes treachery?"

Conclusion: the NSPS as proposed makes the workforce more vulnerable to covert and overt enemy persuasion toward treason. Interestingly employees, be they rank and file or

managers are less susceptible to threat if they believe that their employer has a demonstrated commitment to preserving their workers' rights and job security. This simple observation should be self evident. In candor it looks like the NSPS as proposed would benefit from more common sense personnel management thought.

2.2 Other observations: (Note: the following are exerts with comment. There is simply not enough review time allowed for the detailed comments that the author would like to make.)

Section 9901.905 states that "Any provision of a Collective Bargaining agreement that is inconsistent with the issuance of any policy by management is unenforceable on the effective date of such issuance of said policy". Note: Does anyone really believe that this statement is anything other than a declaration against unionization given the declaration that workers' rights are essentially void? Collective Bargaining Agreements are negotiated in good faith before approval and are good faith agreements with a long history of serving the nation and the workforce well. It is unimaginable bad faith to prose IAW the NSPS that a negotiated agreement can be changed at any time by management policy. Some of this NSPS thinking has an unwary feel of the practices of Cold War period Soviet Union and pre World War II Germany after Hitler was put into power via elections. Workers' rights, what few there were, were quickly removed.

The Employees representative may appeal the Department's determination that a provision is unenforceable to the National Security Labor Relations Board. However!!!! The Secretary, in his sole and exclusive discretion, may continue all or part of a particular provision. The reality is that the secretary has a full time job with all the other complex aspects of defense transformation. Who really believes that the Secretary, although a genuinely fine person, has the time to look at every grievable issue unless by directive nothing is grievable? What is the purpose of the National Security Labor Relations Board if workers' rights are void by NSPS policy or at best not specific?

9901.910 Management Rights:

(a) Nothing in this subpart may affect the authority of any management official or Supervisor of the department --

(1) To determine the mission, budget, organization, number of employees, and internal security practices of the Department. (Note: Observations are that: reorganization has long been a management tool to promote, missions are sometimes inadequately resourced and budgeted and often government managers are too dependent on defense industry contract support for internal government mission execution; in some cases government employees evaluations are being done by contractors who receive profits based on work, therefore removing workers' rights serves opposite to improving government internal security and government stewardship.)

(2) To hire, assign, and direct employees in the Department ; to assign work, make determinations with respect to contracting out, and to determine the personnel by which



operations may be conducted; to determine numbers, types, pay schedules, pay bands and/or grades of employees or positions assigned to any organizational subdivision, work project, tour of duty, and the technology, methods, and means of performing work; to assign employees to meet any operational demand; and to take whatever other actions may be necessary to carry out the Department's mission; and

(Note: This gives management a Cart Blanc to do anything with employees in any way and does not place any check and balance for fair treatment of either rank and file workers or lower level managers. There is no indication of recognition of the productivity gains to this nation that arose out of the progressive establishment of workers' rights forward from the days of the Industrial Age Revolution. A movement toward elimination of workers' rights is a movement away from intellectual freedom and toward losses in defense posture. If this lesson in history is lost, then the DoD is moving increasingly toward dictatorship and separation of any links with the Congress and the people at large. Is this the intent of NSPS as proposed?)

(3) To lay off and retain employees, or to suspend; remove; reduce in pay, pay band, or grade; or to take other disciplinary action against such employees, or with respect to filling positions, to make selections for appointments from properly ranked and certified candidates for promotion or from any other appropriate source.

(Note: RESUMX is already flawed as a pre-selection tool, reorganization is already a tool for position establishment and removal, and temporarily assignments are already a tool for pre-qualification. Apparently item (3) simply opens the government personnel management door wide open to a spoils system at every level of employment.)

(b) Management is prohibited from bargaining over exercise of any authority under paragraph (a) of this section or the procedures that it will observe in exercising the authorities set forth in paragraphs (a)(1) and (2) of this section.

(Note: Is this simply a blatant anti-unionization and anti-workers' rights statement?)

#### 9901.322 Setting and adjusting rate ranges.

Within its sole and exclusive discretion, DoD may, subject to 9901.322 (Confer with OPM) set and adjust the rate ranges established under 9901.321. In determining the rate ranges, DoD may consider mission requirements, labor market conditions, availability of funds, pay adjustments received by employees of other Federal agencies, and any other relevant factors.

(Note: Does this statement propose that DOD scientist and engineers have no unique attributes or experience and training base that make their skills once employed unique and beneficial to the DoD? If so what is the valued added to the workforce by DoD work experience if any?)

9901.343 Pay reduction based on unacceptable performance and/or conduct.

An employee's rate of basic pay may be reduced based on a determination of unacceptable performance and/or conduct. Such reduction may not exceed 10 percent unless the employee has been changed to a lower pay band and a greater reduction is needed to set the employee's pay at the maximum rate of the pay band.

(Note: This appears like a specific number that could be arbitrary and capricious. There is no relative basis for judgment or peer review procedure established. Obviously, empowerment to fiscally punish has a quieting effect on employees' willingness to speak up against fraud, waste and abuse. Is this the intent?)

9901.352 Setting pay upon reassignment.

DoD may set pay anywhere within the assigned pay band when an employee is reassigned, either voluntarily or involuntarily, to a position in a comparable pay band.

(Note: This appears as policy that could be arbitrary and capricious and used to threaten employees to shut up and not speak out against fraud, waste or abuse. There is no relative basis for judgment or peer review procedure established. Obviously, management empowerment to fiscally punish has a quieting effect on employees' as well as supervisors' willingness to speak up against fraud, waste and abuse; intellectual freedom is unquestionably compromised. Is this the downside NSPS intent?)

External Recruitment and Internal Placement

9901.511 b (1) The Secretary and the OPM Director may enter into written agreements providing for new excepted and competitive appointing authorities for positions covered by the National Security Personnel System, including noncompetitive appointments, and excepted appointments that may lead to a subsequent noncompetitive appointment to a competitive service.

(Note: Does this open the door to a spoils system that can reach any level of Federal employment?)

9901.511 (d) Nothing in this section limits the discretion of the Department to remove employees for offenses other than those identified by the Secretary as an MRO.

(Note: So if DoD employees have no workers' rights, what exactly are the offenses identified by the Secretary as an MRO?)

2.3 Additional comments:

Both DoD and Homeland Defense appear to be gutting workers' as well as managers' rights. Managers' rights are also diminished because it appears that they as well as

workers can be dumped and/or reassigned pretty easy without an audit trail into whom or why they were dumped or reassigned; same thing goes for rank and file employees. That encourages cover-up and fear to speak up in the worst case. In one sentence it says there are no employee rights and in another it appears to say unionization is OK as long as it does nothing to get in the way of management. The document appears to not recognize that managers are employees as well as rank and file employees are employees. If managers are not considered as employees for some undefined reason in the NSPS as proposed, then how does the NSPS deal with the problem in the government such as occurs when a top manager tells the next level down, "Get rid of that person." The next level down then says the same thing to the manager that works for him/her and so on until the supervisor at the bottom who gets stuck with the nasty job of removal of the offending person (manager or rank and file employee). Everything is verbal until it gets to the bottom so there is no accountability audit trail. As discussed earlier there are already many ways to eliminate people from assignments. If the supervisor at the bottom cannot get rid of the offending person at his/her level, then that supervisor's performance can take a hit or he/she can be considered as insubordinate. In that case both the employee and the first line supervisor could be easily eliminated IAW the NSPS as proposed. The decision making audit trail is quickly lost as is performance and accountability. This new NSPS system appears to systematically destroy the audit trail and eliminate, if not minimize, discovery of the truth of what happened. Page 7567 sets limits on interrogatories and pleadings that could prevent case presentation in difficult and complex cases. It appears that the case complexity should justify the number of interrogatories and pleadings, not some arbitrary and capricious non-case related rule. Additionally, the document does not apparently motivate employees to speak up about management and technical problems that have potential to flag serious whistle-blowing type issues. Even in simple grievance, it can currently take almost a year to get a management answer even when shorter timeframes for resolution are currently set by negotiated Union Agreement. Review of page 7565 indicates that in an adverse action "Employees are entitled to a minimum of 15 days advance notice and a minimum of 10 days to reply, which run concurrently." Comprehensive replies can easily take many hours in many cases and communications and investigations can easily last over a period of extended months. In an adverse action issue, great amounts of time could reasonably be required for a defense. Review of paragraph 4 on page 7567 indicates that "The ability of the parties to unilaterally submit a request for case suspension is eliminated." Review of paragraph 7, page 7570, indicates that "under chapter 71 of Title 5, the obligation to notify the union well ahead of any changes in workplace, and complete all negotiations before making any changes can seriously impede the Departments ability to meet mission demands. To insure that the Department has the flexibility that it needs, the Department and OPM propose to revise the management rights provisions of Chapter 71. Expanding the list of nonnegotiable subjects in 7106 to include what are now permissive subjects of bargaining- the numbers, types, grades of employees and the technology, methods, and means of performing work, -is proposed. The proposed regulations prohibit bargaining over the exercise of these rights and over other rights enumerated in Chapter 71, including the right to determine mission, budget, organization, and internal security practices, and the right to hire, assign and direct employees, and contract out." Add all of that up and apprehensively the Department say to an employee and in worst case a whole

organization, "You have 11 days to RIF and you and your mission and organization are out of here and you don't have a right to union representation or due any consideration from Congress or your community?" The NSPS apparently seems to open the door to a spoils system under a veil of reactionary fear. In some areas the NSPS speaks to hiring procedures and in other areas it says management can do pretty much whatever it wants because of the implied National terrorism fear and urgency factor.

Interestingly, the DoD is blessed with many very dedicated professionals. These employees have to demonstrate extensive acceptability and background searches to qualify for security clearances. These security clearances are frequently reassessed and these employees are provided many different ethics and anti-discrimination training courses. If the DoD seriously believes that it cannot trust these highly loyal and highly investigated employees, then who does it believe that it can trust?

3. The DoD military and civilian workforce is perhaps the most talented grouping of employees in the world, yet the NSPS as proposed seeks to strip the civilian workforce of essentially all workers' rights in an illogical quest to improve security and control at the expense of the intellectual freedom fundamental to mission accomplishment.

Interestingly, removing military from many DoD positions is also part of the NSPS quest to improve the workforce. Actually, there are rightfully many positions that are current military positions and that could be converted to civilian positions. Facts are that all positions could be done by military or civilian employees given that they are qualified. It should not be an issue of military versus civilian in a human resource restructuring game that potentially decreases the understanding of soldiers needs. The issue in final analysis is determining what skills sets are best for any single job at any given point in time; some times that person is military and some times that person is civilian. A NSPS that plays military versus civilian is fraught with human resource management concept error as much as military schools that teach that civilians are just in the way. Observation is that the combined military/civilian work force is complex. It consists of military that are now military, military that are active guard, civilians that were once military, and civilians that never were military and government support contractors that also have the same complexities in experience. There is no standard employee per se. There are two four different personnel management systems: one for the civilians, one for the military, one for the government support contractors and one for the defense industry contractors. The NSPS logically must be cognizant of all these human resource management systems since as the "NSPS bends the tree, so goes the defense and commercial sectors that support the DoD in its mission conduct. The NSPS does not even address the human resource management needs and workers' rights associated with government civilian and contractor battlefield support. Apprehensively the NSPS has over simplified the human resource management task and hurriedly issued draft policy that is still grossly incomplete and lacking in the focus necessary to bring reasonable order and fairness.

Given the reality that: the current personnel system is not a worse failure than the NSPS as proposed, the DoD workforce is perhaps the most trustworthy workforce in the world, and the fact that the sky is not falling, it seems prudent for the NSPS and OPM to revisit their concept and strategy and rewrite the NSPS such that it provides reasonable and significant change to accommodate both increased workers' and managers' rights in a

logical understanding of how the game of work can be more credibly and honestly played in pursuit of befitting soldier and taxpayer interest in pursuit of DoD missions successes.

Although it is agreed that the current personnel management system is flawed based on many years of compromise and lack of vision, it is highly questionable if the NSPS as proposed will accomplish anything other than make DoD, the defense industries and DoD commercial and international suppliers worse in management practices that they already are as a result of the complex problems discussed in paragraph 1 and follow on paragraphs above.

Apparently approval is targeted for 90 days after 14 Feb 2005 on a 30/30/30 deadline of which the first 30 days for comment began 14 Feb 2005. That gives little time to comment before any chance to take real organized issue with the document. Noting that the 30/30/30 implementation strategy is sort of a jam it down their throats approach, another question is, "If this DoD version is instituted as is, does it negate any Union and /or Congressional input to the 2005 BRAC?" Point being, if this is approved as written does it conflict with and override existing BRAC approval procedures? Simply put does it open the door to simply doing an 11 day notice of mass RIF to all BRAC impacted employees?

4. These comments are addressed to the NSPS deficiencies as apparent to a single analyst and should not be perceived as personal even if they are at times blunt and direct in admission of apparent problems. Recommend the NSPS and OPM update the Case for Action such that it addresses the complex problems facing the DoD and the whole defense community. Ten and only then can a full understanding of the DoD human resource needs be fully understood. Some observations/recommendations/questions are offered herein to aid steering of continued needed work. Logically the 30-30-30 strategy for forced rapid institution of the new NSPS should be changed to allow rewriting the NSPS and resubmittal to the public for formal review and comment in the Federal Register. Unfortunately, as currently proposed, the NSPS is fraught with numerous errors of logic and shortsighted human resource management errors that can have an adverse impact on the Nation's defense as well as security.

5. Apprehensively, the NSPS and OPM have lost sight of the big picture and the importance of intellectual freedom as relates to delivered productivity and securing stewardship.