



**STATEMENT OF COLLEEN M. KELLEY  
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**ON**

**HELP WANTED AT DHS: IMPLICATIONS OF LEADERSHIP  
VACANCIES ON THE MISSION AND MORALE**

**BEFORE THE**

**COMMITTEE ON HOMELAND SECURITY**

**U.S. HOUSE OF REPRESENTATIVES**

**December 12, 2013**

Chairman McCaul, Democratic Member Thompson, distinguished members of the Committee; thank you for the opportunity to testify before you today on mission and morale issues at the Department of Homeland Security (DHS). As President of the National Treasury Employees Union (NTEU), I have the honor of leading a union that represents over 24,000 DHS Customs and Border Protection (CBP) Officers and trade enforcement specialists in the Office of Field Operations (OFO) who are stationed at 331 land, sea and air ports of entry (POEs) across the United States. CBP employees' mission is to protect the nation's borders at the ports of entry from all threats while facilitating legitimate travel and trade. At POEs, CBP Officers arrested more than 7,700 people wanted for crimes, including murder, rape, assault, and robbery. CBP Officers also denied entry to nearly 145,000 people attempting to enter the United States through an air, land, or sea POEs who were found inadmissible for immigration, customs, health, criminal, or national security reasons.

CBP trade compliance personnel enforce over 400 U.S. trade and tariff laws and regulations in order to ensure a fair and competitive trade environment pursuant to existing international agreements and treaties, as well as stemming the flow of illegal contraband such as child pornography, illegal arms, weapons of mass destruction and laundered money. CBP is also a revenue collection agency, processing nearly \$2.38 trillion in trade and 25 million cargo containers through the nation's ports of entry in FY 2012, up about 4 percent from the previous year. In addition, CBP Officers conducted nearly 23,000 seizures of goods that violate intellectual property rights, with a total retail value of \$1.2 billion, representing a 14 percent increase in value over FY 2011.

I have worked with all three DHS secretaries since the agency stood up in 2003 and know the importance of having leaders in place at agencies. The top spot at DHS has been vacant since September 1, but the President has nominated a strong leader for this position and I look forward to working with Jeh Johnson after he is confirmed by the Senate, hopefully, in the next few days. Leadership vacancies at DHS have been ongoing, but are not the primary source of years of low morale ratings at DHS and other federal agencies. As recently as March 2012, I submitted testimony to the Committee about issues that contribute to low morale at DHS. (See NTEU's March 22, 2012 testimony before the House Committee on Homeland Security Subcommittee on Oversight and Management Efficiency on "Why is Employee Morale Low?")

Factors that contribute to low morale at DHS that I spoke to in previous testimony are echoed in the 2013 Office of Personnel Management (OPM) Federal Employee Viewpoint Survey (FEVS) released on November 8, 2013. The OPM survey shows a significant decline in employee satisfaction across government--and this survey was completed before the 16-day government shutdown that threw federal workers' ability to pay their bills in a timely manner and support their families into turmoil.

OPM survey results show that fewer than half believe they have sufficient resources to do their jobs and slightly more than half (53 percent) expressed satisfaction with their pay. Less than two-thirds would recommend their organization as a good place to work.

The first of these—insufficient resources and staffing—is a particular issue at CBP. A significant cause of low morale at CBP is the ongoing staffing shortages at the ports of entry. Sufficient staffing should be provided to maintain expertise, ensure security and promote trade and travel by reducing wait times at our nation’s air, sea and land ports of entry.

For years, NTEU has argued that CBP is understaffed, in both security and trade-related functions, at land, air and sea ports of entry results in delays at the ports and in real losses to the U.S. economy. According to the U.S. Department of the Treasury, more than 50 million Americans work for companies that engage in international trade and, according to a recent University of Southern California study, “The Impact on the Economy of Changes in Wait Times at the Ports of Entry”, dated April 4, 2013, for every 1,000 CBP Officers added, the U.S. can increase its gross domestic product by \$2 billion. If Congress is serious about job creation, then Congress should support enhancing U.S. trade and travel by mitigating wait times at the ports and enhancing trade enforcement by increasing CBP security and commercial operations staffing at the air, sea, and land ports of entry.

While both House and Senate FY 2014 appropriations proposals would boost CBP Officer staffing--the House by 1600 and the Senate by 1850 CBP Officer new hires- the proposed increase is less than the number stipulated in CBP’s 8/13/13 revised Workforce Staffing Model that shows FY 13 and FY 14 CBP Officer new hire need of 3,811. And because of the ongoing budget stalemate, CBP Officer staffing increases included in both the House and Senate DHS appropriations bill are in jeopardy and the sequester cuts that went into effect on March 1, 2013 have further exacerbated staffing shortages at the ports of entry.

### **Impact of Sequestration on CBP Employee Morale**

On April 12, 2013, I submitted testimony to the House Committee on Homeland Security Subcommittee on Oversight and Management Efficiency on the “Impact of Sequestration.” Under the Budget Control Act, sequestration required CBP to reduce its Salaries and Expenses (S&E) discretionary and mandatory account by \$512 million.

This number included a cut of \$75 million in CBP user fee accounts. User fees will continue to be collected from industry to provide travel and trade security, immigration and agriculture inspection services, but CBP will be prohibited from using a portion of these user fees. User fees are not a tax, by law they pay for specific services provided by the government. Sequestration limits the use of these collected fees to pay for CBP inspectional services.

Under sequestration, the cut to the CBP S&E account included a reduction of \$37.5 million for inspectional overtime at the POEs. Overtime is essential when staffing levels are insufficient to ensure that inspectional duties can be fulfilled, that CBP Officers have sufficient back-up and that wait times are mitigated. In CBP’s own words, “Overtime allows CBP Office of Field Operations to schedule its personnel to cover key shifts with a smaller total personnel number.”

On March 26, the President signed a Continuing Resolution (CR) to fund the government through the end of the fiscal year. The CR did not cancel the sequester. Congress did provide

some additional funding for the CBP S&E account in the CR, but also required CBP to maintain the current CBP Officer staffing level.

Prior to enactment of the CR, the CBP sequester plan required all CBP employees to be furloughed up to 14 days during the remainder of FY 2013 or one day per pay period beginning early to mid-April through September 30, resulting in a 10% pay cut for all CBP employees. The initially-proposed furloughs would have exacerbated an already unsustainable shortage of CBP inspection and enforcement personnel at international air, sea and land ports of entry.

NTEU worked with CBP to find ways to avoid the initially-planned 14 furlough days for frontline employees and promptly called on Congress to approve the agency's reprogramming plan once it was submitted. No employee should face the loss of nearly three weeks' pay—as would have been the case for CBP employees.

As welcome as this development was, however, it deals only with fiscal 2013; sequestration, which is the underpinning for all manner of problems for federal agencies, is scheduled to continue until 2021. And even with the decision not to furlough employees, CBP remains particularly hard-hit by the sequester. CBP had to continue a hiring freeze for non-frontline personnel and maintain limited reductions in overtime even as it recognizes the adverse impact these actions will have on its vital missions of helping secure our nation's borders and facilitating vital trade.

NTEU is continuing its efforts not only to secure an end to sequestration, but to ensure that CBP has sufficient resources to perform its jobs. Again, the ongoing budget stand-off, however, has blocked enactment of a FY 2014 DHS appropriations bill that includes funding to significantly increase the number of CBP Officers.

According to the Partnership for Public Service's (PPS) December 2012 *Best Places to Work in the Federal Government* "Overall Index Scores for Employee Satisfaction and Commitment," DHS came in 31<sup>st</sup> out of the 33 large federal agencies surveyed and CBP, ranked 145 of 228 federal agency subcomponents surveyed, and continues to rank near the bottom for strategic management, teamwork, effective leadership (all categories), support for diversity and family friendly culture and benefits. It is my understanding that PPS is expected to release its latest Index Scores in the next few days.

The 2013 OPM survey results also show a decline at DHS across the board in all four Human Capital Assessment and Accountability indices from 2008 through 2013 and the survey's four Employee Engagement Index trends from 2010 through 2013 (see FEVS Appendix E-1 through E-4 and Appendix F-1 through F-4.) Overall, DHS respondents reported an 11% decrease in Global Satisfaction Index Trends from 62% in 2010 to 51 % in 2013 (see FEVS Appendix G.) Global Satisfaction is a combination of employees' satisfaction with their job, their pay, and their organization, plus the willingness to recommend their organization as a good place to work.

Even though these management deficiencies, as noted in the 2013 FEVS and the PPS's 2012 report, do contribute to low morale among federal workers, NTEU believes that government-wide morale problems can be traced directly to the three-year pay freeze, the

continuing impact of sequestration and the furloughs it spawned, and the 16-day government shutdown. While CBP employees continue to exhibit extraordinary commitment to the mission of the agency, it is clear that the failure of Congress to do its job and the resulting budget uncertainties are taking a serious toll on the federal workforce.

### **Federal Employees Have Contributed Disproportionately to Deficit Reduction**

Since 2010, federal employees have contributed \$114 billion to deficit reduction and economic recovery—an amount far greater than any other group in our society has been asked to sacrifice for these efforts (see attachment.) They include:

- A three-year pay freeze, at a cost to federal workers of \$99 billion;
- Higher pension contributions from new federal hires, at a cost to them of \$15 billion;
- Unpaid furlough days for hundreds of thousands of federal workers due to sequestration;
- An unnecessary 16-day government shutdown, resulting in delayed paychecks that forced thousands of federal employees to take hardship withdrawals from their federal Thrift Savings Plan (TSP) accounts. A hardship withdrawal means an account holder cannot make any TSP contributions for six months—during which time they also lose the government match;
- Agencies straining to meet their missions while short-staffed and underfunded, resulting in significantly higher employee workloads, greater pressure and more stress and anxiety.

Despite these sacrifices by federal workers, press reports of the looming budget deal indicate that Congress is contemplating further cuts to federal employee compensation. A budget conference committee is considering giving agencies some relief from sequestration. According to some reports, cuts to federal and postal employees could account for between 25 and 50 percent of the entire amount of spending cuts under consideration to replace sequestration. One proposal involves hiking federal employees' share of their pension contributions by 1.2 percentage points over three years.

This is unconscionable. Like Social Security, federal and other employer-sponsored pensions are earned benefits, not gifts or handouts. They are part of a compensation package, often explicitly negotiated for in exchange for reduced current pay. Requiring employees to pay more for the same benefits, like furlough days, is another pay cut for the federal worker.

These proposed cuts to federal employee pay and benefits are particularly galling in light of the recent announcement that, pursuant to statute, the Office of Management and Budget has increased the reimbursement cap for federal contractors for the salaries of their top executives by 24% --from \$763,029 to \$952,308. This statute does not set limits on the yearly salary paid to these executives by their company—just sets the cap on taxpayer reimbursement for their salary. Contractors can, and do, provide compensation to their employees that exceed the amount that is reimbursed by the Federal Government. And this cap does not apply to all employees of these contractors, so taxpayers could pay some contract employees an unlimited amount in salary reimbursement.

Not only is this amount more than double what the President makes, but this 24% executive pay hike makes a mockery of the 1% pay raise that federal workers are scheduled to get next year after a three-year freeze on their basic pay rates. The effect on rank and file federal employee morale of this federal contract executive pay hike is incalculable. And this is just one factor that is contributing to undermining employee morale throughout the federal work force.

Federal workers have endured the effect of sequester—in furlough days, deferred training, elimination of performance awards and other cuts this past year—that has greatly contributed to low employee morale. As a new year dawns, the sequester is likely to continue to severely limit the American people's access to government services. At CBP, multi-day furloughs that were averted due to one-time budget restructuring in 2013 may be necessary. Already, CBP employees have been notified of additional sequester related cuts that management will be imposing in the next few weeks such as a huge reduction in funding for the Foreign Language Awards Program (FLAP).

FLAP provides employees who speak and use foreign language skills on the job with a cash award if they use the language for at least 10 percent of their duties and have passed the competence test. FLAP is fully funded by customs user fees and Congress made FLAP funding a priority because not only do language barriers delay processing of trade and travel at the ports, for these law enforcement officers, communication breakdowns can be dangerous. Confusion arises when a non-English speaking person does not understand the commands of a law enforcement officer. These situations can escalate quite rapidly if that person keeps moving forward or does not take their hands out of their pockets when requested. Now FLAP is proposed to be all-but eliminated because of ongoing budget cuts.

As noted in my testimony, filling leadership vacancies at DHS is a contributing factor to low employee morale at DHS. A key nomination at CBP—that of CBP Commissioner—is currently pending before the Senate Finance Committee. I look forward to working with Gil Kerlikowske, upon his confirmation as the next CBP Commissioner, to resolve workplace issues and address employee morale.

But Congress is responsible for much larger problems that have served to undermine employee morale. For too long, CBP at the POEs has been underfunded and understaffed. After more than two years of constant attacks on federal employees--pay and benefit cuts, furloughs and a shutdown-- it is time for the voices of frontline workers to be heard and for Congress to treat them and all federal workers with the dignity and respect they earn and deserve.

The more than 24,000 CBP employees represented by the NTEU are capable and committed to the varied missions of DHS from border control to the facilitation of legitimate trade and travel. They are proud of their part in keeping our country free from terrorism, our neighborhoods safe from drugs and our economy safe from illegal trade. These men and women need more resources and technology to perform their jobs better and more efficiently and are deserving of fair pay and benefits. They have not been receiving either. And those are the main reasons their morale is low.

Thank you for the opportunity to testify before the Committee on their behalf.