

# Tax & Budget

BULLETIN

No. 10 • November 2002

## Federal Government Should Increase Firing Rate

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The debate over legislation to create a 170,000-person Department of Homeland Security has focused on the need for greater flexibility in federal workforce rules. The Bush administration is seeking the “freedom to manage,” including greater ability to fire poorly performing workers. Budget Director Mitch Daniels argues that federal managers “cannot hire whom they wish or fire whom they should.” Recent incidents of dangerously sloppy performance in the Immigration and Naturalization Service, the State Department, the FBI, and other agencies make it clear that far too much poor performance is currently tolerated.

### 1 in 5,000 Nondefense Workers Fired Annually

The table shows that just 434 civilian federal workers were fired for poor performance in 2001. Just 210 nondefense workers, or 0.02 percent (1 in 5,000), were fired for poor performance. Firing rates were similarly low in prior years, and are low across all agencies. For example, the 28,000-person State Department has fired just 6 employees for poor performance since 1984, yet this agency is known for its sloppiness in handing out visas, mishandling secret documents, and letting Russian spies bug a meeting room down the hall from the former secretary’s office.

### Interpreting the Data

The data from the Office of Personnel Management’s central personnel data file include employee removals for poor performance under Title 5, Code of Federal Regulations, Parts 432 and 752. Reforms in 1978 added Part 432 to make firing easier. But removals continue to be very rare, and most occur under Part 752 because Part 432 procedures proved to be too burdensome.

Unfortunately, no private-sector firing data exist to compare with federal data, but the rate of “involuntary separations” is only about one-fourth as high in the federal

government as in the private sector.<sup>1</sup> No doubt private-sector firing is below optimal as well since firms are under threat of expensive wrongful discharge lawsuits. Laws vary across states, but only five adhere to “employment at will,” which allows broad freedom to dismiss workers.<sup>2</sup> Since workers are free to “fire” their employers at any time, employment at will is a balanced approach that should be the rule in both the private and the government sectors.

The dearth of federal firing is consistent with the general lack of incentives for good performance in the bureaucracy. Surveys find that most federal workers do not believe that the best qualified people are the ones receiving promotions.<sup>3</sup> A study by the OPM concluded that “the federal white-collar pay system sends and reinforces the message that performance does not matter.”<sup>4</sup> Thus, federal workers put in time, automatically move up the pay scales, and are nearly immune from dismissal.

**Federal Workers Fired for Poor Performance**

Department	1984-2000		2001	
	Sum	Annual Average	Number	% of Workers
Agriculture	357	21	21	0.02%
Commerce	117	7	10	0.03%
Education	21	1	1	0.02%
Energy	39	2	5	0.03%
HHS	364	21	12	0.02%
HUD	43	3	2	0.02%
Interior	276	16	24	0.03%
Justice	225	13	29	0.02%
Labor	64	4	6	0.04%
State	5	0	1	0.00%
Transportation	329	19	2	0.00%
Treasury	451	27	22	0.02%
Veterans	767	45	40	0.02%
Other	426	25	35	0.02%
<b>Nondefense</b>	3,484	205	210	0.02%
<b>Defense</b>	3,424	201	224	0.03%
<b>Total</b>	6,908	406	434	0.02%

Source: Author's calculations based on OPM data.

## Roadblocks to Federal Firing

The low federal firing rate reflects both agency cultures that are undemanding and the difficulty of terminating bad workers. The White House has noted that it can often take 18 months or longer to fire employees, thus requiring a major commitment of time and effort from managers. Former vice president Al Gore's reinventing government initiative recognized the problem and sought to "reduce by half the time required to terminate federal managers and employees for cause."<sup>5</sup>

The OPM notes that managers need to put in a "heroic" effort to overcome the obstacles to employee removal.<sup>6</sup> Most managers try to work around bad employees or try to reassign them to other groups. OPM surveys consistently find that managers think that "procedures dealing with poor performance are too complicated, time consuming, or onerous; they do not get higher management support; and they perceive their decisions will be reversed or that they will be falsely accused of discrimination in their actions."<sup>7</sup> Those fears are justified given that federal workers lodge discrimination complaints at ten times the rate of nonfederal workers.<sup>8</sup>

Another problem is that poor performers often receive good performance reviews from negligent managers who do not want to rock the boat. There is an ingrained federal culture to score virtually all workers highly—the Merit Systems Protection Board has found that just 1 percent of federal workers are rated below "fully successful" in annual reviews.<sup>9</sup> False high scores create a hurdle for new managers trying to prove that worker performance has actually been poor.<sup>10</sup>

Further protections for bad workers come from abuse of federal "whistle-blower" rules. For example, in May 2002 the number two official at the Bureau of Indian Affairs was fired after being put under two federal probes for influence peddling. But he fought his ouster by filing for whistle-blower protection.<sup>11</sup>

## Corrosive Effect of Poor Performers

Firing is important because retention of bad employees damages group morale. The MSPB notes that "poor performers can have a disproportionately large and negative effect on an organization."<sup>12</sup> Poor employees reduce team performance by wasting the time and efforts of better workers. Good federal employees would welcome more firing because it would reduce the frustrations of dealing with co-workers who produce little work or engage in disruptive behavior. Surveys find that most federal

workers think that poor performers are not dealt with adequately, and most "do not believe corrective action is taken when employees do not meet performance expectations."<sup>13</sup> Most federal workers think it is a major problem that consistently bad employees are not fired.<sup>14</sup> It is even more important to remove poor managers because they can cause the most talented workers to quit.

## Conclusion

Newspapers are filled with stories of incompetent federal workers and managers. For example, in what is being called the "Indian Enron," the Bureau of Indian Affairs has mismanaged billions of dollars in Indian trust funds. Recently, former special trustees of BIA gave scathing testimony about the BIA's striking inability to clean up the mess.<sup>15</sup> Thomas Slonaker testified that the Department of the Interior and BIA are incapable of reform, unwilling to follow the law, and do not "hold people accountable for their actions with consequences for poor performance." Paul Homan testified that the "vast majority of upper and middle management at the BIA are incompetent, [yet] in previous reform efforts over the last 25 years, no senior manager . . . has been removed." That story will recur repeatedly across the government unless reforms are enacted to greatly increase the ability and incentives to fire poorly performing employees.

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<sup>1</sup> See Bureau of Labor Statistics data at [www.bls.gov/jlt/](http://www.bls.gov/jlt/). Involuntary separations include firing and layoffs.

<sup>2</sup> Office of Personnel Management, "Poor Performers in Government: A Quest for a True Story," January 1999, p. 28.

<sup>3</sup> Merit Systems Protection Board, "The Federal Merit Promotion Program," December 2001, pp. x, 7.

<sup>4</sup> OPM, "A Fresh Start for Federal Pay: The Case for Modernization," April 2002, p. 17.

<sup>5</sup> Quoted in OPM, 1999, p. 4.

<sup>6</sup> OPM, 1999, p. 1.

<sup>7</sup> OPM, 1999, pp. 3, 11.

<sup>8</sup> K. C. Swanson, "No Way Out," GovExec.com, November 1, 1996.

<sup>9</sup> MSPB, "Federal Supervisors and Poor Performers," July 1999, p. 12.

<sup>10</sup> OPM, 1999, p. 10.

<sup>11</sup> *Washington Post*, May 25, 2002, p. A5.

<sup>12</sup> MSPB, 1999, p. 7.

<sup>13</sup> MSPB, 1999, p. 8. See also OPM, 1999, p. 3.

<sup>14</sup> MSPB, "Adherence to the Merit Principles in the Workplace: Federal Employees' Views," September 1997, p. 12.

<sup>15</sup> Paul Homan and Thomas Slonaker, testimony before the Senate Indian Affairs Committee, September 24, 2002.