



**National Security Personnel System  
National Defense Authorization Act for FY 2008  
Impact on NSPS Regulations  
February 1, 2008**

*This paper provides executives and leaders with an overview of the NDAA impact on NSPS regulations and DoD Implementing Issuances. There may be additional impact on Component policies and issuances, and you are advised to consult with your servicing Human Resources offices for guidance.*

## **Overview**

On January 28, 2008, the President signed into law the National Defense Authorization Act (NDAA) for Fiscal Year 2008. The NDAA retains basic authorities for NSPS performance management and other human resources matters but makes some significant changes to other portions of NSPS. NSPS regulations and implementing issuances are being modified to conform to the NDAA. The revised NSPS statutory authorities provided for in the NDAA are available on the NSPS web site (<http://www.cpms.osd.mil/nsps>).

## **NDAA impact on NSPS Regulations and DoD Implementing Issuances**

There are four areas affected immediately by the NDAA:

1. The NDAA imposes government-wide rules for several portions of NSPS regulations that have never been implemented. The following portions of the NSPS regulations are immediately void and will be removed from the regulations when they are revised. These portions are:
  - **Subpart G, Adverse Actions**
  - **Subpart H, Appeals**
  - **Subpart I, Labor-Management Relations**

The Department will continue operating under the government-wide authorities governing adverse actions, appeals, and labor-management relations.

2. The NDAA requires NSPS follow government-wide rules regarding reduction-in-force (RIF) and workforce shaping, including transfer of function (TOF). As a result, NSPS workforce shaping regulations and implementing issuances are immediately void and 5 CFR 351 (RIF)

governs these actions. Guidance on implementing Government-wide rules will be published in the near future. Voided regulations and implementing issuances from this change include:

- **Subpart F – Workforce Shaping**
  - **Subchapter 1960 – Workforce Shaping (*implementing issuances*)**
3. The NDAA requires NSPS follow Title 5 employment laws while preserving the flexibility to establish NSPS-unique regulations in lieu of Government-wide regulations. These changes result in the following:
- Referral and selection from the top 3 available candidates are required for each vacancy filled through the competitive examining process.
  - NSPS employee details are limited to 120-day periods with detail extensions limited to 120-day increments.
4. The NDAA mandates all employees with a performance rating above “unacceptable” receive at least 60 percent of the annual General Schedule (GS) Government-wide pay increase as a base salary increase. Prior to the NDAA becoming law, NSPS employees received the January 2008 performance pay increase in this manner.

## **Highlights of Other Changes to NSPS by the NDAA**

The NDAA makes other changes to NSPS that have no immediate impact on how NSPS operates today. These changes include:

- Mandating all employees with a performance rating above “unacceptable” receive locality-based comparability payments in the same manner and to the same extent as employees eligible for locality pay under the General Schedule. However, DoD retains the ability to establish targeted local market supplements.
- Exempting Federal Wage System (FWS) employees from the NSPS Human Resources system. Since no FWS employees have been covered by NSPS, no employees are affected by this statutory change.

- Requiring advance Congressional notification and formal Federal Register notice and comment rule making for the OPM/DoD jointly prescribed regulations.
- Eliminating the statutory collaboration process for employee representatives to participate in the design and implementation of NSPS. Employee representatives retain the right to collectively bargain on the implementation of NSPS for bargaining unit employees.
- Requiring the Comptroller General conduct an annual review of employee satisfaction with NSPS.
- Eliminating the requirement for the Secretary of Defense to determine if the performance management system meets key parameters before moving over 300,000 employees but limits conversions to NSPS to no more than 100,000 employees per year.