



## FEDMANAGER LAUNCHES NEW LOOK

Did you notice something new about this newsletter and our website? We've redesigned FEDmanager website ([www.fedmanager.com](http://www.fedmanager.com)) and e-report.

We welcome feedback from our subscribers. Whether you notice a bug in the site or have suggestions for content, send us an email at [publisher@shawbransford.com](mailto:publisher@shawbransford.com).

~The FEDmanager Team

**APRIL 29, 2014**

### TOP NEWS STORIES

#### **DHS SECRETARY JOHNSON OUTLINES PLANS TO UNIFY COMPONENTS**

Department of Homeland Security (DHS) Secretary Jeh Johnson laid out his plans to better bring the department's Components together in a memo to DHS leadership.

The [April 22 memo](#) entitled "Strengthening Departmental Unity of Effort" was obtained by [Homeland Security Watch](#).

Johnson said in his memo that "it is clear to me...that DHS has yet to reach its full potential as an organization," acknowledging the process will still take some time as the organization continues its maturation.

"We must have better traceability between strategic objectives, budgeting, acquisition decisions, operational planning, and mission execution, in order to improve both Departmental cohesiveness and operational effectiveness," Johnson stated.

To drive organizational change, Secretary Johnson has ordered bi-monthly meetings, led personally by Johnson, of top agency leaders, including Component heads, Under Secretaries, and heads of select offices. There will also be weekly meetings of the Deputies Management Action Group led by the Deputy Secretary that spearhead specific initiatives that require joint development across Components, and several other action groups focuses on specific areas.

New processes are also being put in place for managing investments, budget, and program decisions across the department and Components, with the intention of "incorporating the results of strategic analysis and joint requirements planning into portfolios for review by issue teams." The Undersecretary for Management will be conducting a full review of DHS's acquisition oversight framework and updating Directive 102-01.

DHS Headquarters will also be coordinating and collaborating more with Components on strategy, planning, and analytic capability. Components will still produce their own planning and analysis, yet they will work with

headquarters to better “develop a comprehensive picture of the Department’s mission responsibilities and functional capabilities, and to identify points of friction or gaps, thus framing the corresponding choices to be made.”

Part of that process will be an end to the current version of the FY14-18 DHS Strategic Plan and a revamped effort involving senior leadership across DHS through the Department Senior Leaders Council “to set the vision and specific, mission-focused outcomes for DHS for the next five years.”

The Secretary said that “these changes are not designed to centralize decision-making authority and processes within an opaque DHS Headquarters,” but rather “to transparently incorporate DHS Components into unified decision-making processes and the analytic efforts that inform decision-making. Our collective goal is to better understand the broad and complex DHS mission space and empower DHS Components to effectively execute their operations.”

## **OPM, GSA ANNOUNCE PARTNERSHIP FOR TRAINING AND MANAGEMENT ASSISTANCE PROGRAM**

This week the Office of Personnel Management (OPM) and General Services Administration (GSA) [announced](#) a “partnership to jointly manage the solicitation and award of a new strategically sourced, multiple award contract vehicle to support OPM’s Training and Management Assistance (TMA) program.”

The TMA program provides customized human capital and training services to all federal agencies.

The OPM-GSA partnership, conducted in collaboration with the Strategic Sourcing Leadership Council, supports the government’s largest strategically sourced solution for human capital and training services to date. The contract for the TMA program is expected to be in place in FY 2015.

“At a time when every agency is facing tightening budgets while also dealing with increasing demands for government services, a skilled, trained workforce is more important than ever before,” said GSA Administrator Dan Tangherlini. “This program will help the entire government get the HR support and training services they need and save valuable taxpayer dollars.”

“Today’s announcement of the GSA and OPM partnership to improve how we buy human resources services and training is great news for the taxpayer. By leveraging the core competencies of these agencies, we will reduce redundancy, increase administrative efficiencies, and realize cost savings,” said OMB Deputy Director for Management Beth Cobert.

“This partnership is a great example of the results that collaboration can bring to government,” said OPM Director Katherine Archuleta.

To access the press release announcing the partnership, [click here](#).

## **GSA TAGS 19 FEDERAL OFFICE SITES FOR CONSOLIDATION**

Last week the General Services Administration (GSA) [announced](#) that it had identified nineteen (19) projects around the nation where offices would be consolidated into federally owned space.

The move is intended to reduce rent for agencies, mitigate greenhouse gas emissions, bring employees working nearby into the same building, and allow for renovations of office space into more open, collaborative environments.

GSA has not yet said [how many employees](#) would be affected by the projects, or how many might be relocated as a result of the initiative.

“This investment will save federal agencies \$17 million in annual rent payments and reduce the federal footprint by 507,000 rentable square feet, plus reduce the government’s leasing costs by more than \$38 million,” the agency said in their press release announcing the development.

“As public servants we have a responsibility to serve the American people as effectively and efficiently as possible. By consolidating these locations we are not just eliminating redundant rents and space, but also encouraging collaboration among government workers by creating open workspace. We’re ushering in a new day for office space throughout the federal government,” said GSA Administrator Dan Tangherlini.

For a full list of the 19 sites selected by GSA, [click here](#).

## FROM THE HILL

### FEDERAL SPENDING TRANSPARENCY BILL, DATA ACT, HEADS TO PRESIDENT’S DESK

On Monday this week, the House approved on a voice vote the Senate version of a bill designed to increase the transparency of federal spending data.

The Digital Accountability and Transparency Act (DATA Act; [S. 994](#)) now heads to President Obama’s desk for his signature.

The bill mandates uniformity in the reporting of federal spending data, which is intended to make it easier for agencies, the administration, lawmakers, watchdogs, and members of the public to track federal spending. It also mandates the use of a single portal and website to track federal spending data.

The bipartisan legislation was [sponsored](#) in the Senate by Sen. Mark Warner (D-VA) and Sen. Rob Portman (R-OH). The House version was sponsored by the chairman and ranking member of the Oversight and Government Reform Committee, Rep. Darrell Issa (R-CA) and Rep. Elijah Cummings (D-MD), respectively.

The White House Office of Management and Budget (OMB) had offered [suggested changes](#) to the bill earlier this year, which the sponsors said watered it down and which they did not incorporate into the final bill.

The passage of the bill could not be more timely, as a group of transparency organizations that supported the bill, the [Data Transparency Coalition](#), is holding a [Data Transparency Summit](#) on April 29 in Washington, D.C. The event features several of the bill sponsors as speakers.

## CAREER TIP OF THE WEEK

### IS A CANDIDATE DEVELOPMENT PROGRAM (CDP) RIGHT FOR YOU?

Are you a GS-14 or GS-15 who feels that the Senior Executive Service (SES) could be in your future?

If so, you might want to consider a CDP. You can find plenty of detailed information from the Office of Personnel Management (OPM) [at this link](#), but here’s the overall idea: Imagine stepping out of your normal career path and daily activities to participate in a 12-month program (sometimes longer) designed to enhance your leadership, scope of experience, and executive potential.

Although each person's experience will be a little different, during a CDP, you can expect to receive personal mentoring, an Individual Development Plan (IDP), specialized training, and a developmental assignment.

At the end of your CDP, you'll have an opportunity to develop your Executive Core Qualifications (ECQ) essays and submit them for OPM approval. Going through a CDP doesn't guarantee you an SES position, but it can certainly give you a competitive advantage. Plus, if you are selected for an SES position at some point, you may already have a certified set of ECQs. So while all of your competition is still working to get ECQ approval, you will simply need to show proof of your ECQ certification.

CDPs aren't always available, and they are coveted opportunities among many federal employees. Not surprisingly, they are also highly competitive. In terms of applying, the programs are advertised on USAJOBS just like any other position. Make sure you read the entire vacancy announcement and submit exactly what they ask for—nothing more and nothing less.

Although we've seen CDP announcements call for a full set of ECQs just to apply, that is rarely the case. Usually, they require you to submit what we've coined a "5-Page All-Inclusive Resume." This is simply a resume focusing on the past 10 years of your career that shows your executive potential.

Most importantly, these submissions require you to demonstrate your experience and potential in each ECQ category: Leading Change, Leading People, Results Driven, Business Acumen, and Building Coalitions. So, if a CDP is something that interests you, it's a good idea to start thinking about (and actively seeking) career experience in each of these categories. More on the ECQs [at this link](#).

*Lee Kelley is an Iraq war veteran and former Army Captain who now serves as the senior writer on [CareerPro Global's](#) writing team. Leveraging the company's vast expertise in assisting thousands of SES and federal job seekers, Lee has personally developed hundreds of resumes and more than a thousand ECQs. He is also the Director of Training and Veteran Transitions, and has provided USAJOBS resume-writing workshops to hundreds of federal employees and our military. In addition, Lee is an author and executive coach. He co-authored the book *Roadmap to the Senior Executive Service: How to Find SES Jobs, Determine Your Qualifications, and Develop Your SES Application*. His latest book is titled *Inside Marine One: Four U.S. Presidents, One Proud Marine, and the World's Most Amazing Helicopter*.*

## HEAR IT FROM FMA

### MANAGERS, MORALE, AND EMPLOYEE ENGAGEMENT IN THE FEDERAL WORKFORCE

After a three year pay freeze, unpaid sequester furloughs, a government shutdown, regular threats to pensions and health benefits, and a steady stream of negative rhetoric, it is little surprise that federal employee morale is declining. The federal workforce has seen a decline in hiring and an increase in retirements and resignations to go to the private sector. Left unchecked, morale will continue to pose significant challenges to recruitment and retention.

Consider these comments from a Federal Managers Association (FMA) member who works on aircraft carriers at one of the nation's shipyards: "As for morale, I think it's just a day-by-day thing. We're in the same position as many other agencies when it comes to lack of resources, funding, and trained manpower. You just can't hire people, throw them on an aircraft carrier and say, 'go to work.' Kids are supervising infants. The older, experienced guys, like myself, worry we'll never be able to fix things. The damage has been done and we're all limping into nothing but to 'manage by crisis.'"

This is no way to manage the federal workforce, which, in addition to maintaining aircraft carriers and nuclear submarines, provide essential services like processing Social Security checks and tax returns, protecting our borders, and caring for our nation's veterans.

One step Congress should take immediately is to provide managerial training. Nearly everyone we meet with agrees on the value and need for training for all managers and supervisors on issues such as how to address poor performing employees, enhancing mentoring skills and conducting accurate performance appraisals. The development of these skills is one of the greatest investments agencies can make, both in terms of productivity and the retention of valuable employees. Further, providing sufficient training for managers would improve morale and engagement within the workplace. Regrettably, when budgets are tight, these programs are the first to see their funding cut. FMA endorsed legislation introduced in the 112<sup>th</sup> Congress requiring agencies to provide supervisors with training on various management topics and urges Congress to introduce and approve similar legislation.

Three members of House Oversight and Government Reform Committee recognized the problem negative morale imposes on the federal workforce and requested the Government Accountability Office conduct a study on its effects and its impact on the workforce's ability to serve the American public. FMA National President Patricia Niehaus offered support of the study, stating, "front line managers are already aware of the problem of morale. It impacts productivity and accountability, on top of recruitment and retention. I'm glad this problem is finally getting the attention it deserves." Additionally, FMA, along with other members of the National Council on Federal Labor-Management Relations, is working on a new Employee Engagement Workgroup. Members of the Council, along with members of the Chief Human Capital Officers Council, are examining employee motivation, how managers can engage their employees, and how workforce involvement impacts departments and agencies' ability to meet missions and goals.

FMA's members are primarily front-line managers, and by focusing attention on morale and engagement, it is FMA's hope is that Congress and all federal department and agency leaders keep these managers involved at the outset of discussions on budgets and other priorities. Managers implement the vision and help keep their team focused on their congressionally-mandated missions, so it makes sense that they should be involved in each step of the decision-making process.

Another way to improve morale is to simply recognize the contributions that the men and women of the federal, state, and local government perform daily. The 2014 Public Service Recognition Week (PSRW) theme is "Proud to Serve." PSRW kicks off on Sunday, May 4<sup>th</sup>, with the Public Service 5K Run/Walk in Washington, D.C. There are several promotions throughout the week, including a whiteboard campaign asking public servants across the country why they serve their fellow Americans; a public service town hall, featuring federal leaders discussing the value of government service, moderated by ABC News Political Commentator Cokie Roberts; and, the announcement of finalists for the Samuel J. Heyman Service to America medals, which recognize federal workers who go above and beyond the call of duty for their country. You do not need to be in Washington, D.C., to celebrate PSRW. Be sure to visit [www.psrw.org](http://www.psrw.org) to find guides and other materials to celebrate public service across the country!

*Celebrating its 100th year, the Federal Managers Association (FMA) is proud of its long tradition of Advocating Excellence in Public Service. For more information on how FMA works to protect your interests and to join our team, please visit [www.fedmanagers.org](http://www.fedmanagers.org).*

## CASE LAW UPDATE

### **SUPREME COURT HEARS ORAL ARGUMENTS IN CASE INVOLVING FIRST AMENDMENT PROTECTION FOR PUBLIC EMPLOYEES**

In 2006, a Central Alabama Community College ("CACC") employee became the director of a program for at-risk youth. While reviewing the finances for the program, he discovered that an Alabama state representative was on the program's payroll, despite never having provided any work or services for the program. When the employee notified the CACC president about his concerns, he was warned by the president and CACC's attorney that putting an end to the state representative's "employment" would not be wise for either CACC, or

for the employee. The employee ignored this warning and terminated the Alabama state representative when she refused to report to work. The employee was later subpoenaed for his testimony in two federal criminal trials for mail fraud and fraud involving a program receiving public funds. The employee testified that the state representative had not reported to work and had not submitted time sheets. The employee testified that he instructed the state representative — verbally and in writing — to start reporting daily to the office, but that she had responded by telling him that she had gotten her job through her connections with the Executive Secretary of the Alabama Education Association, and requested to be allowed to “continue to serve the CITY Program in the same manner as [she had] in the past.”

Subsequently, the president of the CACC fired each of the twenty-nine employees of the at-risk youth program. Shortly thereafter, the firings were all rescinded, with two exceptions: the employee (former program Director) who terminated the state representative and one other. The employee-former Director filed suit in federal district court of the Northern District of Alabama, claiming that he was retaliated against due to his testimony regarding the state representative. The district court granted summary judgment to the CACC and the employee appealed to the Eleventh Circuit Court of Appeals. The Eleventh Circuit’s opinion in favor of the CACC president, the public employer, ruled that an employee does not enjoy First Amendment protection when the speech was made pursuant to his official duties, a category which the court of appeals stated included speech which “owes its existence to the employee’s professional responsibilities and is a product that ‘the employer itself has commissioned or created.’” According to the court of appeals, subpoenaed testimony can fall into this category. On Monday, April 28, 2014, the United States Supreme Court heard oral arguments on this matter.

The question before the Court is whether the employee’s testimony was categorically unprotected by the First Amendment. The reach of the Supreme Court’s decision in *Garcetti v. Ceballos*, 547 U.S. 410 (2006), over subpoenaed testimony is central to the question. In *Garcetti*, the Court stated that:

“When public employees make statements pursuant to their official duties, the employees are not speaking as citizens for First Amendment purposes, and the Constitution does not insulate their communications from employer discipline. Restricting speech that owes its existence to a public employee’s professional responsibilities does not infringe any liberties the employee might have enjoyed as a private citizen. It simply reflects the exercise of employer control over what the employer itself has commissioned or created.”

The issue before the Supreme Court yesterday at oral argument was whether a public employer is categorically liberated under the First Amendment to retaliate against an employee for truthful testimony that was compelled by subpoena. The fact that the former CACC program Director’s testimony was presumably truthful has thus far offered him no relief. However, during the oral arguments, Justice Sonia Sotomayor queried “What kind of message are we giving when we’re telling employees, you’re subpoenaed in trial, go and tell a falsehood because otherwise you can be fired?”

In response to argument by counsel for the CACC president, Justice Sotomayor also stated “I certainly understand people — the government being able to tell people don’t go out and talk to the newspapers about this, don’t go out and talk about X publicly, because we should be able to control those kinds of disclosures. But why are we putting people at risk for doing — telling fundamental truth in a public forum like a trial?”

Chief Justice Roberts asked “If he testifies, and you don’t — you want to keep the corruption secret. You know, you don’t want to reveal it and he testifies truthfully and reveals it. Can he be disciplined for that?”

The attorney for the current CACC president argued “If the testimony is factual, based solely on the job duties, as it was here, inseparable from the job duties, and it is information that a citizen would not know, that only the testifier would know, then that is not protected speech.”

This position was not without challenge from the justices, particularly Justice Antonin Scalia, who stated “I’ve never heard of this distinction, the First Amendment protects only opinions and not facts. I’ve never heard of it.”

The Supreme Court will issue a decision in this case by June 30<sup>th</sup> of this year.

[You can read the full transcript of the oral arguments in \*Lane v. Franks\* here.](#)

*This case law update was written by [Conor D. Dirks](#), associate attorney, [Shaw Bransford & Roth, PC](#).*

*For thirty years, Shaw Bransford & Roth P.C. has provided superior representation on a wide range of federal employment law issues, from representing federal employees nationwide in administrative investigations, disciplinary and performance actions, and Bivens lawsuits, to handling security clearance adjudications and employment discrimination cases.*

## EDUCATE YOURSELF

### GOVSEC EXPO TO SHOWCASE TOP SECURITY PRODUCTS AND SERVICES

[GovSec 2014](#), the nation’s premier homeland security conference, is right around the corner. The only event that brings together everything you need to be ready when it counts. This year's conference runs from May 13-15 at the Walter E. Washington Convention Center in Washington, DC.

Highlighted on this year’s agenda will be [Thomas Donilon](#), former National Security Advisor and [Avi Dichter](#), a former director of the Israel Security Agency. Also featured will be a panel of local, state and federal officials who were actively involved in last year’s response to the Boston Marathon bombing, including identifying the suspects and capturing Dzhokhar Tsarnaev.

The GovSec keynotes, as well as its wide-ranging expo, are free for all, but registration is required. For a reasonable fee, GovSec also offers [half-day workshops](#) on May 12, and a [full conference agenda](#) on May 13 and 14, with tracks focusing on counter- and anti-terrorism; critical infrastructure and secured cities; cybercrime and cyberterrorism; campus security and life safety, and law enforcement strategies and tactics.

For more information or to register for GovSec [click here](#).

## GEICO’S GOOD STUFF

### NEXT WEEK IS PUBLIC SERVICE RECOGNITION WEEK – JOIN THE CELEBRATION!

*GEICO’s Good Stuff is a column series highlighting great stuff happening in the federal community.*

Next week, May 4-10, is Public Service Recognition Week ([PSRW](#)), the annual, nationwide time set aside to honor the men and women who serve our nation as federal, state, county, and local government employees.

A longtime PSRW supporter, GEICO joins in saluting all public servants, and would like to extend a special thank you to FEDmanager readers for their service to our nation.

[Designated](#) by Congress and led by the Public Employees Roundtable (PER), [Public Service Recognition Week](#) is a special opportunity to invigorate public employees by offering them the thanks they richly deserve but seldom receive, and to remind the public of the critical functions public employees perform every single day.

The theme for PSRW 2014 is **Proud to Serve**, and PER has resources to help communities, agencies, and individuals celebrate PSRW. [Celebration guides](#) are available online, and [PER has asked](#) public employees to

share why they are proud to serve and why they [love public service](#) on their [Facebook](#), [Twitter](#), and [Instagram](#) pages using tags #PSRW and #Proud2ServeUSA.

Public servants and members of the public are also invited to participate in a [Thunderclap](#) social media campaign. Thunderclap is a tool that can be used to crowd-source social reach, providing a way for messages to be heard by saying something together. It enables organizations to amplify the reach of their messages by tapping into the power of the crowd. The best part about Thunderclap is you can [follow the link](#), sign up to participate (prior to May 4), and not worry about remembering to post a message on social media on a particular day. Thunderclap does all the work for you once you sign up to participate.

During PSRW there are several larger events in Washington, D.C. as well as celebrations around the country hosted by Federal Executive Boards, states, counties, and localities.

[Events](#) currently scheduled in Washington, D.C. include the [Public Service 5K](#) run/walk on May 4 benefitting the [Federal Employee Education and Assistance Fund](#) (FEEA), government employee appreciation day at the Washington Nationals stadium on May 6, the announcement of [Service to America Medals finalists](#) on May 6, and a May 8 [public service town hall](#) hosted by the Partnership for Public Service.

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## HEARD INSIDE THE BELTWAY

I write to respectfully request that your nominee for the Director of the Office of Management and Budget (OMB) possess a background in federal workforce and governmental oversight issues.

*From an [April 24 letter](#) from Senator Jon Tester (D-MT), chair of the Senate federal workforce subcommittee, to President Obama*

## WEEKLY LEADERSHIP REFLECTION

Never doubt that a small group of thoughtful committed citizens can change the world. Indeed, it is the only thing that ever has.

*Margaret Mead*

## FEDMANAGER LAUNCHES NEW LOOK

Did you notice something new about this newsletter and our website? We've redesigned FEDmanager website ([www.fedmanager.com](http://www.fedmanager.com)) and e-report.

We welcome feedback from our subscribers. Whether you notice a bug in the site or have suggestions for content, send us an email at [publisher@shawbransford.com](mailto:publisher@shawbransford.com).

~The FEDmanager Team