A SPECIAL STUDY

TO MEET THE NEEDS OF THE NATIONS:

Staffing the U.S. Civil Service and the Public Service of Canada

A Report to the President and the Congress of the United States by the U.S. Merit Systems Protection Board

THE CHAIRMAN

U.S. MERIT SYSTEMS PROTECTION BOARD
1120 Vermont Avenue, N W.
Washington, D C 20419

January 1992

Sirs:

In accordance with the Civil Service Reform Act of 1978, it is my honor to submit the U.S. Merit Systems Protection Board report titled "To Meet the Needs of the Nations: Staffing the U.S. Civil Service and the Public Service of Canada."

This report describes and compares merit staffing policies, systems, and practices of the U.S. and Canadian Federal civil services. It also includes information about labor relations and compensation policies and practices.

The report demonstrates that merit system protections can be provided in different ways. While the Federal civil services of the United States and Canada both enjoy positive worldwide reputations for adhering to the principles of merit, they achieve the necessary balance between management controls and employee protections very differently. This report identifies Canadian merit system policies and practices that have potential for adaptation in the U.S. Civil Service.

I believe you will find this report useful as you consider issues that affect our Nation's ability to attract, retain, and motivate a high-quality Civil Service workforce.

Sincerely,

Daniel R. Levinson

Daniel R. Levinson

The President
The President of the Senate
The Speaker of the House of Representatives
Washington, DC

A Special Study

TO MEET THE NEEDS OF THE NATIONS: STAFFING THE U.S. CIVIL SERVICE AND THE PUBLIC SERVICE OF CANADA

A Report to the President
and the Congress of the United States
by the U.S. Merit Systems Protection Board

U.S. Merit Systems Protection Board

DANIEL R. LEVINSON, CHAIRMAN

ANTONIO C. AMADOR, VICE CHAIRMAN

JESSICA L. PARKS, MEMBER

LUCRETIA F. MYERS, EXECUTIVE DIRECTOR

Office of Policy and Evaluation

Evangeline W. Swift, Director

John M. Palguta, Deputy Director

Frederick L. Foley, Project Supervisor

Harry C. Redd III, Project Manager

TABLE OF CONTENTS

Executive Summary xi

I. Introduction 1

A. Scope and Purpose of the Report 1

B. Study Methodology and Definitions 1

II. Size and Structural Differences 3

A. Size 3

B. Personnel Management Structure 3

C. Government Structure 4

III. Merit Staffing Effects of Labor-Management and Compensation Programs 5

A. Labor-Management Relations 5

B. Compensation Practices 7

1. General 7

2. White-Collar Pay Practices 9

3. Blue-Collar Pay Practices 10

4. Managerial and Executive Compensation 10

a. Determining Pay 10

b. Other Compensation Available to Canada's Management Category 11

IV. Staffing Practices 13

A. External Recruiting 13

1. In Canada 13

2. In the United States 14

3. Similarities in Recruiting Tools Available to U.S. and Canadian Managers 15

4. Effects of the Central Agencies' Recruiting Efforts 15

B. Three Special Staffing Issues 15

1. The Issue of Citizenship 15

2. Providing Equitable Employment Opportunities 17

TABLE OF CONTENTS

3. The Effect of Canada's Official Language Requirements 18

C. Competitive Staffing 19

1. Staffing Through Internal Sources 19

a. Initiating Action 20

b. Considering Priority Candidates 20

c. Starting the Competitive Process 22

d. Determining Assessment Tools 23

e. Conducting the Candidate Assessment 25

f. Making the Selection 26

g. Variations for Executives and Senior Managers 27

h. Post-Selection Activity 29

2. Staffing Through External Sources 29

3. Evaluating the two Countries' Competitive Staffing Processes 31

4. Conclusions 32

D. Noncompetitive Position Changes 33

1. Discussion 33

2. Conclusions 35

E. Downsizing Practices 35

1. Downsizing in the Canadian Public Service 35

2. Downsizing in the U.S. Civil Service 37

3. Conclusions 38

V. Safeguards for Merit Staffing 41

A. Audits 41

B. Appeals 41

C. Investigations 43

D. Personnel Staff Certification 44

VI. Relationship Between Merit Staffing; Suitability (or Reliability) and Security; and Ethics 45

A. Suitability (or Reliability) and Security 45

1. Suitability (Reliability) Checks 45

2. Security Considerations 45

B. Ethics 47

VII. Conclusions and Recommendations 49

A. Conclusions 49

B. Recommendations 50

Tables

Table 1. Statutory White-Collar Pay Rates for the U.S. Civil Service and Two Canadian Public Service White-Collar Negotiated Pay Scales, January 1991 8

Table 2. Management and Executive Pay Rates in the U.S. Civil Service and the Public Service of Canada, May 1991 12

Table 3. Appointment and Promotion Information, Canadian Public Service and U.S. Civil Service, 1989 19

Table 4. Appeals of Selection Processes in the Public Service of Canada, 1986-90 43

Appendixes

Appendix A. A Brief Summary of Personnel Management Initiatives Underway in the U.S. Civil Service and the Public Service of Canada 53

Appendix B. Methodology 55

Appendix C. Letter from the Public Service Commission of Canada Commenting on the Final Draft of this Report 56

Appendix D. A Note Concerning Different Meanings Given to Identical Terms in the United States and Canada 58

Appendix E. Defining and Guarding "Merit" in Staffing in Each Country 59

Appendix F. A Description of the Key Personnel Management Agencies in the U.S. Civil Service 62

Appendix G. A Description of the Key Personnel Management Agencies in the Canadian Public Service 63

Appendix H. A Summary Comparison of the Rights and Benefits Granted to Surplus Employees by the Public Service of Canada and by the U. S. Civil Service During Staff Reductions 65

EXECUTIVE SUMMARY

Since 1883, the U.S. Government has operated a merit-based employment system for filling covered career positions within the Federal service. Similarly, the Federal Government in Canada has had a merit system since 1908. Although both systems have undergone significant change over time, they continue to pursue a common objective—the presence of a well-qualified and motivated public workforce made up of individuals hired, advanced, and retained based on their ability to do the job and without regard to nonmerit factors. In attempting to achieve this objective, however, the two systems operate with some major differences.

The U.S. Merit Systems Protection Board (MSPB), an independent agency in the executive branch of the U.S. Government, serves as a guardian of and advocate for the Federal merit systems in the United States. In partial fulfillment of that responsibility, MSPB undertook a comparative study of the Federal merit staffing systems of Canada and the United States. Our purpose was to identify the major differences in each country's approach to achieving a merit-based civil service as well as any strengths of the Canadian system that might have application in the United States. This report contains the results of that review.

Background

More than 1.73 million individuals work for the U.S. Government under a competitive civil service system. To the north, in the Canadian Government, approximately 215,000 Federal employees work under a similar competitive employment system. Both Governments are increasingly challenged by the task of attracting, motivating, and retaining well-qualified employees.

Based in part on differences in history, culture, values, and size, each nation's merit-based employment system has developed some unique aspects that stand in sharp contrast to the other's. Nonetheless, the systems appear to achieve roughly comparable results although through different means. Exploring these alternative means can help policymakers determine whether the current policies and practices underlying the U.S. Civil Service provide the best—or most desirable—approach to Federal human resource management as we approach the start of the 21st century.

One goal of a merit staffing system is to assure fair treatment of employees and job applicants by requiring adherence to basic merit principles and providing safeguards against abuse. Another goal is to provide managers and supervisors with the tools they need to effectively manage their workforces and exercise appropriate judgment and discretion. Although these are certainly not incompatible goals, the balance between them is constantly shifting. As discussed in this report, it is in the way they achieve this balance that the U.S. and Canadian systems exhibit the greatest differences.

Summary of Findings

- Compared to the Canadian merit staffing system, the U.S. Government's system allows its managers substantially less control over the staffing process. Correspondingly, however, individual employees or job applicants in Canada have greater opportunities to question or contest the end result of the staffing process than do their U.S. counterparts. For example:

* In filling a vacancy with applicants from outside Government, Canada's central merit staffing agency—the Public Service Commission (PSC)—screens all applicants to determine their relative qualifications for the vacancy's occupation and refers the most highly qualified group of candidates (10 or more would not be uncommon) to the appropriate manager. The referred applicants are then placed in final rank order through a second, job-specific assessment process largely controlled by the Canadian manager. The top-ranked applicant, as determined during this second assessment, must be offered the job. By contrast, in the U.S. Civil Service, a central examining authority—the Office of Personnel Management (OPM) or an agency examining office—rates, ranks, and refers candidates. U.S. managers may conduct a further assessment of the candidates but may not change their initial rank order, and must select from the three candidates ranked highest by the referring office.

* Canada's internal selection process is also heavily influenced by the involved manager. As with outside hiring, an assessment panel is used to rank the internal candidates, the top ranked candidate must be selected, and the Canadian manager almost always personally sits on the assessment panel. By comparison, U.S. managers are typically not part of the assessment (or merit promotion) panel that ranks the candidates. U.S. managers may select any person referred by the panel.

* Nonselected candidates for internal promotion in the Canadian Federal Government may ask for a formal administrative review of the staffing action. (Some Canadian departments have implemented a process through which panels assessing internal candidates routinely provide feedback to unsuccessful candidates.) Nonselected promotion candidates in the U.S. Government may not file an appeal or grievance on the basis of nonselection alone.

■ Federal recruitment in Canada is a highly centralized process orchestrated and largely conducted by the PSC. Within the United States, by contrast, recruitment is largely decentralized within each Federal agency, with assistance and guidance provided to them by the U.S. Government's central personnel agency—OPM.

■ In a downsizing situation, Federal managers in Canada have considerable control over the process of determining which employees will be retained in their positions, based on the needs of the organization and without regard to seniority or veterans status. In the United States, Federal managers have much less control over the reduction-in-force process, and years of service and veterans status carry considerable weight in determining who will be retained. However, Federal employees in Canada are afforded a greater "cushion" than their U.S. counterparts during downsizing efforts. For example:

* Before any actual layoff occurs, affected Federal employees in Canada have a 6-month period during which they are placed in a surplus category while their employment continues. Employees in the United States may be released after a 60-day notice.

* While in a surplus status, Canadian Federal employees are given priority consideration Governmentwide for other positions for which they qualify and, if terminated, they receive priority reemployment rights Governmentwide. Canada's Public Service Commission acts as a central control point to enforce these rights. The effectiveness of this approach is seen in the fact that, during 5 years of continuous and sizable Federal Government workforce reductions before our

review, a total of only 4 percent of Canadian employees were actually released from employment.

- Federal employee unions in Canada have a much more active and influential role in the human resource management arena than do their U.S. counterparts. For example:

  * While unions in both the U.S. and Canadian Federal Governments may negotiate on hours of work, only in Canada may they also negotiate pay, leave entitlements, paid holidays, and overtime rates. Further, Canadian unions may strike as a means of resolving labor-management disputes, while strikes against the U.S. Government are illegal. (Exercise of this right was dramatically illustrated when over half of the Federal workforce in Canada went on a legal strike in early September 1991.)

  * Virtually all nonmanagerial Federal employees in Canada are covered by union bargaining units, and these employees are required to pay the appropriate union dues whether or not they join the union. By contrast, only about 60 percent of comparable U.S. employees are covered by bargaining units, and those who do not join unions are not required to pay dues.

- Canada's compensation system for top managers allows payment of performance awards that in the aggregate can total up to 5 percent of payroll, with no individual eligible to receive more than a 10-percent increase. Payouts under the current U.S. pay-for-performance systems may not exceed 1.5 percent of payroll for managers and 3 percent for senior executives.

- Canada permits no more than 30 percent of its managers to receive a performance rating above "Fully Satisfactory," while U.S. performance appraisal systems do not permit predetermining the distributions of ratings.

- Recently approved legislation will replace the U.S. Government's national white-collar pay scale with a system in which this pay will vary by location. One goal of the legislation is to reduce a considerable pay gap between Federal and private sector employers in some occupations and especially in some high-cost areas. By contrast, the Canadian Federal Government negotiates pay rates for each occupational group. This appears to have had the effect of keeping Federal pay in Canada generally more competitive than pay in the U.S. Government, although Canada also experiences some disparities based on locale.

- More competitive salaries, an active centrally managed recruitment program, and job security appear to assist Canada's Federal Government in attracting a well-qualified workforce. For example, 59 percent of the applicants recruited from colleges and universities in 1988 were in the top 25 percent of their classes. In the U.S. Government, however, uneven recruitment efforts among individual Federal agencies, less competitive salaries, and a somewhat negative image of the U.S. Government as an employer, have led to concerns about the quality of new hires.

- Applicants without Canadian citizenship may receive competitive appointments for competitive positions in the Canadian Federal Government if no qualified citizens are available. The U.S. Government, in contrast, does not permit noncitizens to receive competitive appointments for competitive Civil Service positions. Instead, in the rare absence of a qualified citizen, it allows noncitizens to be hired for competitive jobs through "excepted" appointments, which provide fewer job protections.

- The U.S. Government is still attempting to reduce the time and costs associated with personnel security clearances for Federal employees. In contrast, Canada has already significantly reduced both by: (1) reducing,

through a needs analysis, the number of positions requiring security clearances; (2) reducing the time and effort needed to process each level of clearance; and (3) increasing the time interval between periodic updates.

Conclusions and Recommendations

The Federal civil service systems in both Canada and the United States have sought to reach a common destination through different paths. To a large degree, both have been successful in that each enjoys a favorable world-wide reputation for operating systems intended to hire and advance employees on the basis of their ability to do the job. Widespread abuses of the political patronage system, which caused the establishment of these merit systems in the first place, have long since disappeared from view. Further, the different approaches taken by each nation appear to meet their basic human resource management needs.

One of the strengths of each system has been the ability to adapt to changing conditions and demands over the years. In addition, neither Government is resting on past achievements. Rather, each is actively planning changes to meet current challenges and the challenges expected in the next century. The ideas and information in this report can certainly be of value to both the U.S. and Canadian civil service systems as different options or new initiatives are considered or undertaken. However, since with this report we hope to provide information that will be useful as policymakers consider changes to the U.S. Civil Service, we offer the following suggestions or recommendations:

- The U.S. Office of Personnel Management and individual Federal agencies should give strong consideration to increasing the authority of individual managers and supervisors to make and effect sound, merit-based personnel management decisions. This can be done, in part, by moving from a system that relies on limiting Federal managers' options as a way of preventing abuse to one of holding managers more accountable for the consequences of their decisions. More specifically:

  * Consideration should be given to changing the process by which outside candidates (new hires) are referred to the U.S. selecting official in final rank order, which is a way of implementing the U.S. requirement that selections be from among the three candidates ranked highest (the "rule of three"). OPM or the agency examining office could provide a larger number of qualified candidates and allow a second merit-based assessment to further distinguish the relative qualifications of the applicants for the specific position. The "rule of three" selection could then be made by the manager from this refined ranking.

  * In internal merit promotion determinations, selecting officials could be allowed to become more actively involved in the process of ranking qualified candidates, including serving on a promotion panel. Correspondingly, however, agencies should also be encouraged to adopt some variant of the process used by some Canadian departments to provide feedback routinely to unsuccessful merit promotion candidates.

  * OPM should explore modifying current reduction-in-force regulations to grant managers greater authority to determine the retention of employees based on how well the managers perceive the employees will meet the needs of the future downsized organization.

  * As part of the trade-off for increased management flexibility and authority, however, managers should incur greater responsibility for explaining or defending, if needed, the merit basis of their decisions. This might include, for example, making non-selection for promotion a matter covered by the

grievance system. U.S. Federal employee unions might also be given a larger role in deciding how the process should operate or in providing oversight of that process.

- The effectiveness of the relationship between OPM and other Federal agencies in the college recruitment area might benefit from a closer examination of the way in which the Public Service Commission of Canada gathers and uses relevant information from the individual Canadian departments.

- OPM and each individual agency might also benefit from adaptation of some of Canada's successful actions in revising its security clearance process to reduce the amount of labor and expense involved.

- Given demographic projections that show the future U.S. workforce containing a larger proportion of noncitizens than in the past, OPM should consider initiating a regulatory change that would, in the absence of qualified citizens, permit noncitizens to receive competitive appointments to competitive service jobs.

I. INTRODUCTION

This report describes and compares two national civil service systems—the Public Service of Canada and the U.S. Civil Service—with a focus on how the two systems are based on merit. In previous reports the U.S. Merit Systems Protection Board (MSPB) compared the Civil Service with two alternative U.S. Federal personnel systems: the Tennessee Valley Authority (Oct. 1989) and the U.S. Department of Veterans Affairs (Jan. 1990). The present study is our first to compare two national civil service systems.

We selected the Public Service of Canada for study because of the many linkages between our countries and the similarities we share, including many common characteristics of our respective Federal workforces. As examples of these common characteristics, the Public Service is Canada's largest civilian employer, just as the U.S. Civil Service is ours. Both systems were established in reaction to patronage excesses. And both enjoy favorable worldwide reputations for being merit-based.[1]

A. Scope and Purpose of the Report

How the United States and Canada uphold their reputations for their merit-based Federal civil service systems—particularly with regard to attracting, selecting, retaining, advancing and (on occasion) reducing their staffs—is the focus of this report. While we primarily describe and compare staffing policies and procedures, we also discuss labor-management relations, compensation, and other considerations that affect staffing, where important for context.

MSPB undertook this study because of our legislative mandate to protect and enhance the merit basis of our Nation's Federal civil service systems. Our aim was to learn about Canada's Federal personnel management policies and practices with a view toward identifying possible applications in the United States, where significant efforts to strengthen the civil service systems are underway. Appendix A briefly summarizes the goals of the U.S. initiatives as well as those of Canada, which is working to strengthen its Public Service to meet the challenges expected in the 21st century.

B. Study Methodology and Definitions

Methodology. We interviewed more than 80 Canadian officials and reviewed myriad policy and procedures documents for the analysis relating to Canada. We obtained information on the U.S. Civil Service, as needed, from the U.S. Office of Personnel Management (OPM). A fuller explanation of our study methodology is in appendix B. Appendix C contains a letter from one of the Canadian Government's two central personnel agencies commenting on the final draft of this report.

Canada's Study Population. Canada's "Public Service" comprises nearly 215,000 white- and blue-collar employees: (1) who work for organizations (principally departments) usually under the direct authority of Ministers; (2) who are appointed by the Public Service Commission; and (3) for whom, strictly speaking, the Treasury Board acts as employer.[2] We call them "public servants" or "Public Service employees" in this report. They comprise "less than half of all members of the federal public sector and constitute its most highly regulated portion."[3] This figure includes 4,775 Management

[1] In the United States, the 1883 Pendleton Act established the merit basis for the U.S. Civil Service. In Canada, the merit basis of the Public Service was established in 1908 through the Civil Service Act.

[2] Public Service Commission of Canada, "Report of the Public Service Commission of Canada for 1990," 1991, p. 6. (We subsequently refer to this report as "PSC 1990 Annual Report.")

[3] The Government of Canada, "Public Service 2000: The Renewal of the Public Service of Canada," 1990, p. 7.

Category employees[4]—Canada's highest levels of career managers and executives. Also included are Canadian employees corresponding to U.S. Foreign Service employees.

The U.S. Study Population. The U.S. study group is a similar population of about 1.72 million white- and blue-collar "competitive service" civil servants and roughly 8,000 members of the Senior Executive Service. They are called "civil servants" or "Civil Service employees" in this report. Jointly numbering slightly more than 1.73 million, these employees are generally recruited, hired, and promoted through competitive procedures established by civil service laws and OPM rules and regulations. They also represent the most highly regulated workers in the larger total Federal civilian workforce. We have omitted U.S. Foreign Service employees from this study because in some instances they are governed by unique regulations.

Terminology. Following Canadian practice, we capitalize "Public Service" when referring to the study group population. To Canadians, the uncapitalized "public service" typically represents a larger population that includes all Federal civilian employees in Canada (a total of slightly over 529,000 workers[5]).

We use "Civil Service" for the U.S. study population. These roughly 1.73 million workers are only part of the approximately 2.1 million (exclusive of Postal Service employees) Federal civilian population, which in this report we refer to as the "civil service."

Appendix D contains an important cautionary note about different meanings that Canadian and U.S. users give to identical terms such as "college" and "agency."

Timeliness of the Study. Our study reflects the situation as of September 1991. We collected information between February and June 1991, and our analysis was carefully reviewed by Canadian and U.S. officials in June and September 1991. It is important to note, however, that the Federal civil service systems of both countries are in flux. As appendix A reflects, major improvement efforts are underway in both the United States and Canada.

[4] "PSC 1990 Annual Report," p. 23.
[5] Ibid., p. S-8.

II. SIZE AND STRUCTURAL DIFFERENCES

A. Size

There is a substantial difference in the size of the two Federal civilian workforces we studied. The U.S. Civil Service of approximately 1.73 million is about eight times the size of Canada's 215,000-person Public Service. However, the population of the United States is about 10 times greater than the population of Canada; thus, the two workforces are not vastly different as proportions of their respective countries' total populations.

B. Personnel Management Structure

U.S. Personnel Policy. Responsibility for Federal personnel policy is vested in the Office of Personnel Management, an independent agency reporting to the President. However, the Office of Management and Budget (OMB), an arm of the White House, has substantial executive branch control over this policy. Among other things, the vastly influential OMB controls the flow of money and the allocation of positions ("ceiling slots") to the departments and agencies. Without OMB's agreement, OPM is limited in its ability to initiate or carry out policies that increase personnel costs or employment strength.

Canadian Personnel Policy. Canada's structure offers an interesting contrast to that of the United States. In Canada, central authority for personnel policy is vested in two separate organizations: the Treasury Board (TB) and the Public Service Commission (PSC). The cabinet-level Treasury Board has a money-allocation and personnel-ceiling control role similar to OMB's in the United States, and its operating arm, the Treasury Board Secretariat (TBS), has a number of personnel management roles. For example, the TBS develops and publishes policies and procedures for most personnel programs, administers the Public Service labor-relations program, and represents the Government in negotiations. Being part of the organization that has dollar and ceiling control gives the TBS a distinct advantage over OPM.

While the TBS has central responsibility for most personnel programs, it is not responsible for staffing. Instead, responsibility for staffing is vested in the PSC as part of that organization's responsibility for protecting merit.

Merit Protection in the United States. Principal third-party protection of the merit basis of the U.S. system is vested in the Merit Systems Protection Board. MSPB provides this protection through its appeals and systems oversight roles. The Office of the Special Counsel, an independent agency, further protects merit by investigating and prosecuting before MSPB allegations of prohibited personnel practices and prohibited political activities. OPM also is responsible for protecting merit through its Governmentwide guidance, operations and program review activities, and each department and independent agency has a similar responsibility within its own organization.

Merit Protection in Canada. As noted above, the Public Service Commission is responsible for protecting merit in Canada's Public Service. The PSC is an independent agency that reports to Parliament through the Secretary of State for Canada. It is responsible for appointments to or within the Public Service, and for hearing and deciding a variety of employee appeals, primarily ones concerning appointments from within the Public Service. Thus, the PSC is responsible for functions divided between OPM and MSPB in the United States.

An indepth comparison and evaluation of the two countries' safeguards for merit staffing is in chapter V. Appendix E summarizes how each country has defined "merit" and the operating systems and procedures each has put in place to support its definition.

Other Functions. In both the United States and Canada, other agencies have Governmentwide authority for other specific aspects of Federal human resource management, such as labor-management relations and equal employment opportunity. Information about these agencies, plus additional information about the lead personnel agencies, is provided in appendix F for the United States and appendix G for Canada.

C. Government Structure

The U.S. Model. The intentional diffusing of power to provide checks and balances among the executive, legislative, and judicial branches of the U.S. Government can significantly affect the Civil Service. The effects are most noticeable when the executive and legislative branches have differing ideas about issues concerning the Federal workforce.

The Canadian Model. Canada operates under a Parliamentary system that contrasts strongly with the U.S. Government model. By custom, some Canadian legislators (i.e., Members of Parliament) are appointed to serve as Cabinet Ministers; thus, they carry out both legislative and executive roles.[6] In this dual capacity, they are called upon regularly to explain and defend publicly before their peers in Parliament their actions and the positions of their departments. U.S. executive branch officials may be called to testify before congressional committees but neither Congress nor the executive branch views such testifying as "explaining and defending" before peers.

[6] In Canada the executive branch ("the Government") by custom is made up of members of the legislative branch (Members of Parliament). The Prime Minister chooses Ministers, generally from among elected Members of the House of Commons but occasionally from the appointed upper house (Senators). Collectively they make up the Cabinet. Very rarely, individuals who aren't in either house are appointed to the Cabinet, but custom requires them to get seats in the House or Senate in a reasonable time or resign from the Cabinet.

III. MERIT STAFFING EFFECTS OF LABOR-MANAGEMENT AND COMPENSATION PROGRAMS

A. Labor-Management Relations

Virtually every nonmanagerial Canadian Public Service employee is covered by a union bargaining unit, compared with about 60 percent of Civil Service employees. Canadian public servants in jobs covered by bargaining units are required to pay dues to the representing union whether or not they are members, while U.S. civil servants only pay dues if they are actually union members. The Canadian Public Service negotiates with employee unions on a wide range of major personnel matters including pay, leave entitlements, paid holidays, hours of work, and overtime rates. Of these five major examples, only hours of work are negotiable for U.S. civil servants.

Canadian Public Service bargaining units are organized Governmentwide by occupational groups (e.g., clerks, nurses), and the Treasury Board is the sole employer representative in all negotiations with unions. U.S. bargaining units are established on the basis of a clear and identifiable community of interest among employees. They may be agencywide in scope, or may be established by agency subcomponent, duty station, or facility. Each U.S. agency, facility or duty station is a potential "employer" and bargaining is carried out below the Governmentwide level. Canadian Public Service unions may choose the right to strike as a means of resolving disputed labor-management issues (as illustrated by a strike of approximately 120,000 public servants called on September 2, 1991), while striking is illegal in the U.S. Civil Service.

Employer-union relationships differ greatly in the U.S. Civil Service and the highly unionized Public Service of Canada. Because these relationships significantly affect staffing, we compare the two systems below:

1. Virtually every nonmanagerial Canadian Public Service employee is covered by a bargaining unit, compared with about 60 percent of eligible Civil Service employees.

2. Canadian Public Service bargaining units are organized Governmentwide by occupational groups (e.g., chemistry, clerical, nursing) so that employees who do similar work, regardless of the work setting, are treated similarly under terms of the negotiated agreements. U.S. bargaining units are established on the basis of a clear and identifiable community of interest among the employees. While this may be agencywide, it may also be by agency subcomponent, duty station, or facility. U.S. law also provides for national consultation rights within an agency for any labor organization which is the exclusive representative of a substantial number of the agency's employees, if no organization has exclusive recognition on an agency basis.

3. Canadian public servants in jobs covered by bargaining units are required to pay union dues through payroll checkoff whether or not they join the union. Employees who are restricted on religious grounds from paying union dues may be exempted from this requirement, but still must authorize checkoff of an amount equal to union dues. In these cases the money goes to a religious organization registered under the Income Tax Act. Eligible U.S. employees may choose whether to join a union; those who do not join do not pay.

4. As the official Canadian employer of public servants, the Treasury Board is the management representative in labor-management relations. This "single employer" view also ensures that employees across the Public Service who have similar job responsibilities are treated with consistency. In contrast, each U.S. facility or duty station is a potential "employer," and issues can be raised and bargained locally, although the scope of bargaining is limited.

5. In Canada, most provisions concerning terms and conditions of public employment are subject to collective bargaining. These include rates of pay, leave entitlements, paid holidays, hours of work, and overtime rates. Of these five major examples, only hours of work are negotiable for U.S. civil servants. Many other conditions of employment may be negotiated in the United States, however.

6. In Canada, certain issues excluded from collective bargaining can be changed only by legislation, such as retirement pensions, recruitment, lay-offs, discharge for incompetence or incapacity, promotion, and transfer of employees. These issues are generally not negotiable for U.S. civil servants either, although unions have made some inroads in the areas of how promotions and transfers are to be implemented. Changes in Civil Service retirement pensions are effected by legislation; the rest of these issues are generally subject to Governmentwide regulations published by OPM.

7. Finally, there are some Canadian issues that are purely management rights, including organizing the Public Service, assigning duties to positions, and classifying positions. Thus, like U.S. managers, Canadian managers control decisions affecting distribution of work, determination of duties, and job evaluation. In the United States, however, "management rights" are defined more broadly than they are in Canada.

8. Canada allows the union for each bargaining unit to choose between two dispute resolution processes: binding arbitration or conciliation. The bargaining unit representative is allowed to choose between these two methods each time notice is served to renew a collective agreement. Interestingly, the conciliation process includes the right to strike—a point emphasized on September 2, 1991, when nearly 120,000 members of bargaining units represented by Canada's largest Public Service union went on strike.[7] In the United States, limited dispute resolution processes are available to the negotiating parties through the Federal Labor Relations Authority or the Federal Service Impasses Panel, and striking is illegal.

9. In 1985 Canada began a new bargaining process, called "Master Bargaining," with the two largest Public Service unions. Master Bargaining allows each of these two unions to use one bargaining process for all of their groups. Given this opportunity, one of these two unions decided that one bargaining table would handle all issues for 18 of its 28 groups, with the remaining 10 groups continuing to bargain individually. It also agreed to settle disputes under Master Bargaining through binding conciliation and give up the right to strike. The other affected union initially decided that all nonmonetary issues could be handled by one bargaining table, but that the individual groups would continue to independently negotiate monetary issues. This union also initially agreed to binding conciliation for nonmonetary issues but retained the right to strike for monetary issues. It has since moved to a master table arrangement that groups all of

[7] This largest strike in the history of Canada's Public Service ended on October 3, 1991.

its bargaining units into seven tables that deal with both monetary and nonmonetary issues, and has retained the right to strike if impasse is reached.

As the above comparison indicates, unions have a far more significant presence in the Canadian Public Service than in the U.S. Civil Service. Conversely, Civil Service managers have substantially more direct negotiating authority than their Canadian counterparts.

B. Compensation Practices

U.S. and Canadian compensation practices for white- and blue-collar nonsupervisory, nonmanagerial employees are more different than alike. We've already noted, for example, that Canada permits unions to negotiate for pay, while the United States doesn't. This can affect staffing in some interesting ways—for example, in the way a promotion is defined. Because Canadian rates and grades are negotiated by occupational groups, they can't be equated. Thus, it isn't possible to use grade to determine when a move between occupations is a promotion.

While there's no distinction in how white- and blue-collar nonmanagerial pay is set in Canada, there are differences in the United States. Civil Service white-collar pay is under a General Schedule, and blue-collar pay is locality based.

There are also differences in the two systems' compensation practices for senior managers and executives, but there are also some strong similarities for these employee groups. The following sections highlight key compensation practices.

1. General

Although the gap between Federal white-collar pay and higher private sector pay in the past has adversely affected the U.S. Government's ability to recruit and retain highly qualified employees, the grade structures of the white-collar General Schedule and the blue-collar Federal Wage System pay systems make it relatively easy to identify a promotion.

By contrast, the pay gap between the Public Service and the private sector in Canada tends to be less than in the U.S., and Canada appears to be more successful in its recruiting efforts. However, Canada's negotiated pay rates lead to specific pay ranges for each occupation group and preclude defining promotion in terms of a movement to a higher grade. This, plus the fact that the timing of negotiated increases varies by occupational group, makes a consistent determination of promotion between occupational groups in Canada difficult.

The negotiated pay rates for nonmanagerial Canadian public servants tend to be higher than the statutory rates for civil servants in the United States doing similar jobs. Further, there is no visible relationship between pay ranges for different occupations in the Canadian system. Both points are illustrated by table 1. Because they are negotiated, Canada's occupation-specific pay rates tend to be closer to private sector rates than are those in the United States.

The difference between the U.S. and Canadian rates is most noticeable at the lower grade levels but is generally evident throughout. In Canada's Auditing Group the minimum and maximum annual rates at all levels are substantially higher than the U.S. ranges, and the minimum annual rate for the Personnel Administration Group is also higher.

Canada's separate nonmanagerial pay schedules make the definition of a promotion between occupational groups difficult. As table 1 shows, since pay rates (generally ranges of rates for several different grades) are negotiated for each employee group, each group has its own pay schedule. This creates a need to define promotion between occupational groups in

Table 1. Statutory White-Collar Pay Rates for the U.S. Civil Service and Two Canadian Public Service White-Collar Negotiated Pay Scales, January 1991[a]

U. S. Civil Service			Canadian Public Service					
Grades[b]	Minimum Annual Rates[c]	Maximum Annual Rates	Grades	Minimum Annual Rates[d]	Maximum Annual Rates	Grades	Minimum Annual Rates	Maximum Annual Rates
			Auditing Group			Personnel Administration Group		
GS-5	$16,973	$22,067						
GS-7	21,023	27,332	AU 1	$32,553	$41,378	PE DEV	$16,390	28,203
GS-9	25,717	33,430	AU 2	40,873	48,141	PE 1	28,203	36,306
GS-11	31,116	40,449	AU 3	46,590	53,776	PE 2	36,887	41,493
GS-12	37,293	48,481	AU 4	53,136	60,594	PE 3	41,970	47,210
GS-13	44,348	57,650	AU 5	58,885	66,809	PE 4	47,222	53,049
GS-14	52,406	68,129	AU 6	64,577	73,398	PE 5	53,474	60,157

[a] Because U.S. and Canadian grades can't be directly equated, we show the minimum and maximum rates for the U.S. Civil Service grades for white-collar positions and the minimum and maximum negotiated rates for grades of two white-collar groups in the Public Service of Canada. U.S. pay rates for GS grade 15 are not included since that grade level is generally equivalent to the nonnegotiated "Senior Manager" level in Canada.

[b] These GS rates apply to all positions assigned to the respective grades unless "special rates" have been authorized based on geographic location, occupation, or grade within occupation.

[c] The rate of exchange between the U.S. and Canadian dollars varies slightly from day to day. However, an exchange rate of $1 U.S. equals $1.17 Canadian (or $.85 U.S. equals $1 Canadian) will permit a reasonable comparison of U.S. and Canadian pay rates.

[d] Source for all PSC rates: Pay Research Bureau, Public Service Staff Relations Board of Canada, "Rates of Pay in the Public Service of Canada, January 1, 1991," n.d.

some term other than a move to a higher grade. In fact, Canada defines a promotion[8] as moving to a new position for which the maximum rate of pay exceeds the highest rate of the old position by an amount at least equal to the lowest pay increment for the new position. If the new position has no fixed pay increments, then the increase must be at least 4 percent. In addition, an appointment into the Management Category (roughly equivalent to GM-15[9] and SES jobs in the United States) or to a successively higher level within that Category is considered a promotion.[10] These definitions are important to our study of merit staffing because promotions are included in Canada's definition of "appointment," and the appointment process involves specific merit processes.

The timing of negotiated pay increases for various Canadian employee groups complicates application of the promotion definition. Because unions don't all negotiate or come to closure on issues at the same time, a seesaw pay increase effect occurs each time one occupational group's pay advances and another's doesn't. Solely as a result of when negotiated increases are effective, an employee's movement to a job in a different occupation may sometimes be subject to competition, but at other times may be permitted without competition because it doesn't meet the definition of promotion. We don't know how Canadian Public Servants view this anomaly, but it's likely that their U.S. counterparts would view this as a major problem based on inconsistent treatment.

[8] The definition that follows is paraphrased from the Public Service Commission of Canada's "Staffing Policies and Guidelines," August 1989, p. 10.

[9] GM is the designation used for white-collar managers and supervisors in jobs classified at GS grades 13, 14, and 15. They are under a pay-for-performance system called the Performance Management and Recognition System (PMRS). The SES is the Senior Executive Service, a separate personnel system for top executives below cabinet rank. Like PMRS, it also is a pay-for-performance system.

[10] Treasury Board of Canada, "Personnel Management Manual, Vol. 2, Chapt. 4-1, Salary Administration Policy, " p. 1.

Canada's negotiated pay rates also cause unexpected results in the application of the country's "equal pay for work of equal value" principle. This principle is strongly subscribed to in Canada, where—among its powers—the Canadian Human Rights Commission has the authority to recommend pay adjustments based on disparity between male- and female-dominated occupations. During negotiations, each union will naturally negotiate for the highest possible pay rates for the employees it represents. One union may then use the negotiated pay disparity between its members and those of another (higher paid) union as a basis to bring a complaint before the Commission. If the Commission agrees that the "equal pay for work of equal value" principle has been violated, it very well may recommend an adjustment in pay. As of March 1991, such recommendations (which carry significant weight with the Government) have tended to create equality using the higher negotiated pay rates.

2. White-Collar Pay Practices

In the United States, Civil Service pay is nonnegotiable. White-collar Civil Service pay rates are determined by the General Schedule (GS), a legislatively determined pay schedule with 15 grades and 10 pay rates ("steps") for each grade. A GS employee advances through the steps on the basis of longevity and acceptable performance.[11]

Each white-collar employee below the executive level is assigned to one of the 15 grades and, theoretically, all people at the same grade are paid rates in the same range nationwide. White-collar pay comparability with the private sector is a principle that has been mandated by law[12] since 1962. However, almost since passage of that law, annual GS "comparability" pay adjustments have fallen short of increases recommended following national pay surveys. As measured by the annual survey, each reduced comparability increase put the Federal white-collar pay a little further behind that of the private sector. This slowly increasing pay gap is generally acknowledged to have contributed inexorably to an erosion of the Civil Service's ability to compete for highly qualified talent, at least in many occupations and in many parts of the country.

When viewed in the context of any given area's pay rates, the Governmentwide GS pay approach led to great Federal white-collar pay disparity across the country. Some GS employees were probably overpaid based on their localities' economies; many others probably were properly paid or underpaid. (This is a problem Canada also has despite negotiating pay rates by occupation, since the rates apply throughout the Public Service in most cases.)

As a means of addressing the most severe underpaid situations, OPM for many years has authorized "special rates." These are higher rates, usually for certain occupations in certain grades, either nationwide or in specific geographic locations. About 200,000 white-collar employees receive special rate salaries. Because the mechanism for authorizing special rates requires agency initiation and is both cumbersome and time-consuming, it is almost always triggered only after recruiting or retention problems have reached untenable proportions.

U.S. Federal white-collar pay underwent major revision in 1989. Under terms of the Federal Employees Pay Comparability Act of 1990, locality pay (based on market rates) for white-collar employees is being introduced. A unified General Schedule will continue to exist for those portions of the United States where the pay difference isn't great enough to require locality rates. However, by 1994 the United States must identify the localities, determine the appropriate pay differential for each, and begin phasing in those increases over a 9-year period.

[11] In contrast, GM employees may be paid at a wider range of dollar amounts between the minimum and maximum rates for their grades, and their salary advancement is based to a greater degree upon performance.

[12] The Federal Salary Reform Act, since codified at 5 U.S.C. 5301.

Although U.S. white-collar pay practices may have contributed to some recruiting and retention problems over the years, the GS system serves a clearly useful purpose where merit staffing is concerned: identification of a promotion is relatively easy. The GS grades involved are the controlling factor, so movement to a higher GS grade is a promotion.

3. Blue-Collar Pay Practices

Federal blue-collar pay in the United States has long been tied to local pay rates. The blue-collar system, known as the Federal Wage System, has pay schedules for nonsupervisory, work leader, and supervisory categories of employees, with the rates for these categories varying by locality and occupation. While in theory this means competitive Federal pay in the local area, statutory caps on blue-collar pay increases appear to have had the same effect on these employees that reduced GS comparability increases have had on the white-collar workforce: reduced pay competitiveness. In Canada, unions negotiate blue-collar pay just as they do for white-collar employees.

4. Managerial and Executive Compensation

a. Determining Pay

Canada's aggregate pay for performance to its Management Category employees can be up to 5 percent of the Category's payroll. In the United States, a maximum of 1½ percent of payroll is available for GM employees' performance-based bonuses and 3 percent for the Senior Executive Service (SES). While both countries require a performance rating equivalent to at least "fully successful" to qualify for performance-based pay, no more than 30 percent of Canada's Management Category employees can be rated above that level annually. No such limitation may be placed on the distribution of performance ratings in the United States. Finally, peer panels are used in the U.S. to help judge the performance of—and hence influence the pay rates for—SES members, a practice that is not followed in Canada.

In both the United States and Canada, pay and other compensation practices for managers and executives are somewhat different than for the rest of the workforce. This is the group called the Management Category in Canada. With the exception of employees in some medical and scientific categories, Management Category employees are under a pay-for-performance system.

This makes them like GM[13] and SES employees in the United States. However, the rules governing each of the three pay-for-performance systems in the two countries differ in some key aspects. For example:

- Annual performance pay expenditures in Canada can go up to 5 percent of the Management Category payroll; comparable categorical U.S. shares for performance bonuses are 1.5 percent for GM employees and 3 percent for SES. Unlike in Canada (where there are no minimums), the United States requires that at least 1.15 percent of the GM payroll must be used for GM performance bonuses.

- In addition to performance bonuses, GM employees may also earn merit increases. Eligibility for these increases, which change their base pay, depends upon their specific performance ratings and their placement within the pay range for their grades.

- Both countries require at least a Fully Successful (called Fully Satisfactory in Canada) performance rating to qualify for performance-based pay. However, no more than 30 percent of

[13] In this section, however, our discussion covers all GM employees (grades 13-15), which is a larger portion of the U.S. workforce below the executive ranks than is included in Canada's Management Category.

Management Category employees may be rated above Fully Satisfactory annually.[14] U.S. managers aren't allowed to force the distribution of GM or SES performance ratings (or any others either).

- SES performance pay is given as a lump-sum bonus and is not part of basic pay, while performance affects both base pay and bonuses for GM employees. Performance pay for Canada's Management Category is part of base pay, except that performance bonuses may be awarded to employees who are at the top rate for their level and whose performance rating for the year is Fully Satisfactory or higher. The maximum increase or bonus that may be paid to a Canadian manager is an amount equal to 10 percent of salary.

- Up to 5 percent of U.S. career senior executives may receive Meritorious Rank Awards annually ($10,000 cash) and up to 1 percent may receive Distinguished Rank Awards ($20,000 cash), in addition to other earned performance awards. Canada has no equivalent.

The United States uses Performance Review Boards made up of other senior executives to make recommendations on the performance ratings given to executives. SES performance bonuses and ranks are awarded for exceptional performance and accomplishments and, therefore, this peer review can (and usually does) affect each executive's compensation. Canada's Management Category has no comparable peer involvement process, but, as indicated above, performance appraisal and pay are less strongly linked in the Canadian system.

In the United States, the President sets SES pay rates subject to the following requirements: (1) there shall be five or more rates of basic pay; (2) the minimum rate shall not be less than 120 percent of the minimum rate payable for GS-15 of the General Schedule; and (3) the maximum shall not be more than the rate for level IV of the Executive Schedule.[15] GM pay is part of the General Schedule, which at least theoretically is based on annual external pay comparisons.

In Canada, Management Category compensation is also determined two ways. For the lowest executive level job (EX-1), and the Senior Manager level immediately below EX-1, the compensation package is based on comprehensive total compensation surveys with private sector benchmark jobs. The object of these surveys is to develop pay ranges that will make SM and EX-1 jobs competitive with outside employers. Rates for jobs at or above EX-2 are then determined solely on the basis of internal relativity; differentials among rates are established to provide managers with meaningful financial incentive to accept greater responsibility.

At the lower levels Canada's rates tend to be somewhat lower than those in the United States; this pattern is reversed for the higher levels, as shown in table 2.

b. Other Compensation Available to Canada's Management Category

The total compensation package available to Canada's Management Category employees is somewhat more generous than is available to their U.S. counterparts. For example, the following are examples of what is available to Management Category employees at the employers' expense:

- Small life insurance policies on spouse and dependent children;

- Accidental Death and Dismemberment Insurance on self (and small policies on spouse and dependent children in certain circumstances);

[14] Treasury Board of Canada, op. cit., p. 4.

[15] These requirements are found at 5 U.S.C. 5382. The Executive Schedule is a pay schedule established by 5 U.S.C. 5311 to cover Cabinet- and sub-Cabinet-level jobs. It has five levels, each with a single rate. Level IV is the next to the lowest level.

Table 2. Management and Executive Pay Rates in the U.S. Civil Service and the Public Service of Canada, May 1991

U.S. (Rates in U.S. dollars)		Canada (Rates in Canadian dollars)[a]	
GM-15	$61,643 - $80,138	SM	$61,500 - $72,100
ES-1[b]	$87,000	EX-1	$69,400 - $81,600
ES-2	$91,200	EX-2	$77,000 - $90,500
ES-3	$95,300	EX-3	$85,100 - $100,100
ES-4	$100,500		
ES-5	$104,600	EX-4	$95,800 - $112,500
ES-6	$108,300	EX-5	$106,400 - $125,100

[a] See table 1, footnote c, for information about the rate of exchange between the U.S. and Canadian dollars.
[b] U.S. Senior Executive Service levels have single pay rates.

- Long-Term Disability Insurance;
- Shared cost (50-50) of premiums for provincial health insurance plans in the provinces levying a premium;
- Extended health care coverage and supplementary hospital accommodation coverage under a Group Surgical-Medical Insurance Plan; and
- Public Service Dental Plan.

In addition, regional and higher level headquarters officials are authorized to use business class air travel when the one-way flight is 850 or more air kilometers (approximately 530 air miles). And some higher level Canadian executives are delegated the authority to make "courtesy entertainment" payments (at Government expense) for such purposes as paying for the lunch of an official visitor.

IV. STAFFING PRACTICES

Like their private sector counterparts, today's public managers increasingly are faced with rapidly changing conditions that directly affect mission accomplishment—or even mission definition. They need substantial flexibility to manage their workforces. This section focuses on how well the Public Service of Canada and the U.S. Civil Service provide managers with the staffing tools to ensure this flexibility.

A. External Recruiting

The Public Service Commission is responsible for all external recruiting and has delegated recruitment authority to only 10 of Canada's approximately 70 departments and agencies. In contrast, U.S. Civil Service recruiting is largely decentralized, with the Office of Personnel Management assisting agencies in their recruiting efforts but doing limited actual on-site recruiting.

Canada's centralized university recruiting efforts, coupled with greater pay comparability and strong efforts to provide job security, appear to produce high-quality results. For example, 59 percent of the applicants recruited in 1988 were in the top 25 percent of their university class. The U.S. decentralized approach to college recruiting (plus a lack of pay comparability in many areas or occupations and a somewhat negative image of the Federal Government as an employer) has led to uneven results, according to several recent studies.

Although both the Public Service and the Civil Service emphasize internal staffing sources, adequate supplies of well-educated and highly trained workers can't be found solely within the existing workforce, and other employers compete for the available external supply of applicants. Consequently, both systems recruit from external sources, but they use fundamentally different approaches.

1. In Canada

In Canada, the Public Service Commission is responsible for all external recruiting. To help fulfill this responsibility, the PSC periodically meets with each department and agency to learn, on a continuing basis, the numbers and kinds of recruits to seek, by location, and the time frames within which they will be needed. The PSC then develops appropriate recruiting strategies. PSC recruiting goals include making the Federal Government an employer of choice; ensuring awareness of Federal employment opportunities; and projecting a professional recruiting image.

The PSC shares its responsibility for recruiting blue-collar and clerical/administrative staff with Canada Employment Centres operated by Employment and Immigration Canada. In all regions outside of the National Capital Region,[16] these Canada Employment Centres receive applications and refer names to departments which have job vacancies. Within the National Capital Region the PSC performs these tasks.

The PSC has delegated external recruitment authority to 10 of Canada's roughly 70 departments and agencies. These are sole or major employers of 18

[16] The National Capital Region is the metropolitan area that includes the cities of Ottawa and Hull, and surrounding areas.

occupational categories such as air traffic controllers and correctional officers. Even in these cases department and agency recruiting is coordinated with that conducted by the PSC. Managers in the other departments may participate (directly or through subordinate staff) in on-campus university recruiting, but their activities would be auxiliary to (and coordinated with) the PSC effort.

PSC university recruiting efforts produce high-quality results, according to these figures for candidates recruited in 1988:[17]

- 29 percent were in the top 10 percent of their classes;
- 59 percent were in the top 25 percent of their classes;
- 87 percent were in the top 50 percent of their classes.

Once applicants are recruited, they go through the PSC examination process. Those who make passing scores are eligible for referral to agencies for competitive assessment and appointment. Both of these processes are discussed later.

2. In the United States

OPM's actual recruiting role is different from that of Canada's PSC, although OPM's recruiting objectives[18] are much like the PSC's. OPM assists agencies in their recruitment marketing efforts, but it doesn't do a lot of direct recruiting. It accepts and posts agency-specific job information and advertising information (supplementing more generic recruiting information which it prepares); sponsors job fairs for specific occupations and works with agencies in developing targeted recruiting strategies; accepts and rates applications for examinations; and serves as a clearinghouse for recruiting information that agencies might share. But it doesn't itself directly seek applicants for Federal jobs in most cases.

U.S. Civil Service recruiting is largely decentralized, with the agencies carrying most of the responsibility. Among the agencies' responsibilities is a requirement to inform employment offices of the U.S. Employment Service about all jobs that might be filled by outside candidates through competitive examining.

There's a fair amount of evidence that the Civil Service's decentralized approach to college recruiting has led to uneven results. Agencies with well-established recruiting programs can do well on campus; others report less satisfying results.[19] Anecdotal information suggests that some may even harm their own public images because their recruiting initiatives lack the resources, continuity and polish that may be gained through continued recruitment experience.

OPM's general and targeted information efforts (particularly through OPM Job Information Centers and visits to college campuses) attract a fair amount of interest in Federal employment, so for many occupations there is a relatively large pool of applicants for OPM to refer. And even if agencies are actively recruiting, in almost all cases they must steer their recruits to OPM—or to agency examining offices operated under delegation from OPM—for examining before they can actually make a job offer.[20] This OPM central examining role for the Civil Service is similar to the central examining role exercised in Canada by the PSC.

[17] Public Service Commission of Canada, External Recruitment Programs, "Recruitment and Referral Yesterday, Today and Tomorrow," undated draft, p. 31.

[18] These are to: (1) enhance the image of the Federal Government as an employer; (2) educate the public, especially students and academic officials, on Federal career opportunities; (3) strengthen partnerships with agencies, academia, and key constituency organizations; (4) target occupations and populations for recruiting purposes; and (5) professionalize Federal recruiting programs. (Source: enclosure to letter dated July 26, 1991, from OPM's Assistant Director for Staffing Policy and Operations to the MSPB project manager.)

[19] See for example U.S. Merit Systems Protection Board, "Attracting and Selecting Quality Applicants for Federal Employment," April 1990, p. 6, or "Leadership for America: Rebuilding the Public Service," (Report of the National Commission on the Public Service), Washington, DC, 1989, pp. 23-27; 29.

[20] There is an important exception to this statement: When conducting entry-level recruiting for more than 100 occupations covered by the "Administrative Careers With America" examinations, agencies may make job offers directly to graduates (or graduating candidates) who have a grade point average of 3.5 on a 4.0 scale, or who rank in the top 25 percent of their classes.

OPM has delegated direct-hire authority to agencies for some occupations (including many scientific and clerical occupations). Although use of direct-hire authority generally strengthens the value of word-of-mouth advertising and shortens the recruitment and employment processes, much of the gain depends on the quality of the existing labor pool and the competitiveness of Federal pay.

3. Similarities in Recruiting Tools Available to U.S. and Canadian Managers

Both Canadian and U.S. managers have access to some special provisions to meet particularly difficult recruiting situations. For example, both may use paid advertising; both may pay candidates' travel expenses for interviews and moving costs to the first duty post; and both may pay above the entry rate for the job. (In Canada, Treasury Board policy permits hiring at above the entry rate in certain circumstances, such as where there are labor shortages.) In addition, U.S. managers may pay recruiting bonuses in especially critical or difficult situations. Managers in both countries are expected to use all special recruiting provisions judiciously. Since the money to pay for these provisions comes out of their regular budgets, they probably do.

4. Effects of the Central Agencies' Recruiting Efforts

Regardless of whether or not targeted recruiting is carried out centrally, managers in both countries do benefit from general recruiting activities of their respective central staffing agencies. Both the PSC and OPM have worked hard to fulfill their common goals of making their Governments employers of choice (through proposing and/or implementing policies that help ensure competitiveness) and ensuring awareness of Federal employment opportunities (through attractive, informative recruiting materials, including videotapes and brochures, aimed at various target groups). And on a utilitarian but still essential plane, both central agencies have a responsibility for receiving applications and subsequently identifying the candidates who are basically eligible for appointment.

B. Three Special Staffing Issues

Before actually addressing staffing processes, we discuss the relationship of citizenship to employment, which is treated differently by the two systems; the treatment of employment equity and merit staffing, which is a matter of concern in both countries; and how Canada's official policy of bilingualism affects staffing.

1. The Issue of Citizenship

Canada's Public Service hires non-Canadians for all kinds of jobs, although citizens are given preference in hiring. In contrast, the United States doesn't hire noncitizens through competitive appointments for Civil Service jobs, but in the absence of qualified applicants who are U.S. citizens, does permit noncitizens to fill competitive service jobs through "excepted" appointments. Such appointments give the noncitizens fewer protections than employees with competitive appointments.

Canada permits non-Canadians to work for its Public Service, although Canadian citizens are given preference in hiring. In contrast, the United States bars persons without U.S. citizenship from competitive Civil Service employment.[21] Instead, the Civil Service permits noncitizens to be hired (including for permanent positions) under excepted appointments when there are no qualified U.S. citizen applicants. Noncitizens so employed have fewer protections than are afforded competitive service employees.

[21] Executive Order 10577 authorizes the Civil Service Commission (now the Office of Personnel Management) to "establish standards with respect to citizenship, age, education, training and experience, suitability, and physical and mental fitness, and for residence or any other requirements which applicants must meet to be admitted to or rated in examinations." (Civil Service Rule II, Sec. 2.1), "Federal Register," vol. 19, No. 227, Nov. 23, 1954, p. 7522.

In the 1960's and 1970's, Canada's Public Service aggressively recruited non-Canadians, primarily for high-skilled jobs. However, over time Canadian universities began to meet the qualitative and quantitative needs of the Public Service, and labor-market conditions improved. By the 1980's Public Service recruiting of non-Canadians was seldom necessary and essentially ended. But the practice of occasionally hiring non-Canadians continued.

Public Service managers see the current policy as advantageous to the employer. It is permissive, giving them the flexibility to hire a non-Canadian when no qualified citizen can be found. Thus, in some hard-to-fill jobs, or for jobs in hard-to-fill locations, the chance of finding a qualified candidate is increased.

Unfortunately, because Canadian departments and agencies seldom furnish the pertinent information on hiring documents, the PSC reports that it has no reliable figure concerning employed non-Canadians. Anecdotal information suggests that small to moderate numbers are hired each year, and that some subsequently become citizens.

Anecdotal information also suggests that non-Canadians continue primarily to fill professional jobs. However, clerical jobs in the Toronto area (Canada's highest cost area) are also likely to be filled by non-Canadians because: (a) demand there for clerical employees is high, and (b) the Federal Government's salaries aren't competitive there with either private employers' or the Ontario Provincial government's.

Interestingly, under the Charter of Rights and Freedoms, there currently are three Federal court challenges to Canada's statutory granting of preference to citizens in hiring. Each raises a unique question; all are potentially far-reaching.

Officially, Canada solidly favors giving citizens preference. While a Parliamentary committee has recommended abolishing this preference, the Government has opposed the recommendation. Some groups espouse eliminating the preference and giving "permanent residents"[22] equal footing for Public Service employment. Canada's Human Rights Commission views preference for Canadian citizens as potentially representing discrimination based on national or ethnic origin, while the Public Service Commission holds that this preference is purely a citizenship issue not involving discrimination. The PSC is helping the Department of Justice defend the current preference policy in the three court cases.

The United States has barred noncitizens from examination for competitive service jobs by executive order since 1954.[23] Since noncitizens may not be examined, they may not receive competitive service appointments. In infrequent situations where no qualified U.S. citizens can be found for competitive service jobs, noncitizens may be appointed to the jobs through "excepted" appointments. Such appointments provide the employed noncitizens fewer protections than would competitive appointments (e.g., no protection in the event of staff reductions).

"Civil Service 2000"[24] contains numerous projections and facts concerning both the employment pool population and the Federal workforce by the year 2000. Two key projections are that (1) "immigrants will represent the largest share of the increase in the population and the workforce since the first World War,"[25] and (2) "the national workforce will grow more slowly than it has in recent years, and the number of young workers will decline."[26] In addition, "Federal workers are better educated than others in the workforce, and the trend toward higher educational attainment is likely to continue, reflecting the rising skill requirements of Federal jobs."[27]

[22] This is the Canadian term for noncitizens who reside in Canada and have a legal right-to-work status. The closest United States equivalent term is resident alien."
[23] Executive Order 10577, November 23, 1954 (19 FR 7521, Nov. 23, 1954).
[24] The Hudson Institute, "Civil Service 2000" (Prepared for the U.S. Office of Personnel Management), June 1988.
[25] Ibid., p. 19.
[26] Ibid., p. 17.
[27] Ibid., p. 20.

Taken together, these findings suggest that the Federal Government's ability to compete for its share of the available workforce in the future will not be easier than today. And although current economic conditions are helping the Federal Government attract and retain high-quality individuals for most jobs, this probably won't continue. Rather, the outlook suggests a return in the future to difficulties in filling at least certain categories of jobs.

In anticipation of changing employment demographics and economic conditions, we believe the present U.S. bar against hiring noncitizens for competitive Civil Service jobs deserves reconsideration, even though a current need to hire noncitizens has not been established.[28] U.S. managers, and the public they serve, would benefit from an approach more like Canada's: in the absence of qualified U.S. citizens, permit competitive service appointment of noncitizens. Such a revised approach would increase U.S. managers' staffing flexibility, giving them another staffing tool with which to face the future. Then, when a need arises, they will have the same flexibility to consider noncitizens that their Canadian counterparts now have. Such a change would also be fairer than the current approach is to any noncitizens thus hired. However, since opening competitive hiring to noncitizens would have implications for national security, we believe this is one staffing area where OPM should retain strong central control.

If U.S. officials believe the Canadian approach is too generous, another model could be considered: Australia's. In Australia, noncitizens with a legal right-to-work status may be employed by the Federal Government. As a condition of employment they must seek citizenship status when eligible. Further, they may not acquire permanent employment status until they obtain citizenship. They effectively remain term or temporary employees as long as they are noncitizens.

2. Providing Equitable Employment Opportunities

Canada's Public Service's employment equity goals are similar to equal employment opportunity goals in the United States, and both countries have comparable affirmative action programs for their Federal civil service.

The Canadian term for this issue is "Employment Equity." For the Public Service, the term includes all activity aimed at drawing certain groups presently experiencing employment disadvantage within society into the employment pool, with a view towards ensuring their proportional representation in the workplace.

The Treasury Board, which is responsible for effective implementation of the Employment Equity program, establishes program policies and guidelines and assists in analyzing, developing, and implementing appropriate strategies. The Public Service Commission assists in the application of Employment Equity policy by (1) administering special measures programs and (2) promulgating staffing policies and practices to provide equitable employment opportunities to designated groups.

Canada currently has special emphasis programs aimed at four distinct groups: Women; Visible Minorities; Persons with Disabilities; and Aboriginal Peoples. The fact that individuals self-identify themselves to these groups can be a problem, as can the fact that in some cases the group identity is rather loosely defined. For example, Canadian policy for the Public Service would apparently allow a person who is culturally bonded (by upbringing and marriage) to an aboriginal group but who is not ethnically part of that group, to claim status as part of that group if he or she self-identified in this manner.

[28] Following review of a draft of this report, OPM's Assistant Director for Staffing Policy and Operations pointed out to the project manager that agencies have not reported any problems to date with the restrictions, or expressed any desire to have the restrictions lifted.

A stated goal of the Employment Equity Program is to eventually eliminate the need for special programs by achieving full equity. In the Canadian context, participation rates for designated group members are established for each department. The special recruitment, promotion, and retention measures in support of these objectives are then consolidated into 3-year action plans on which Deputy Ministers are required to report. Thus, Employment Equity is an integral part of human resource management and development, and is key to activities aimed at establishing a workforce reflecting the diversity of the public it serves.

The PSC, the TBS, and the departments work together to support the attainment of participation measures. Diversity and cross-culture awareness training is offered throughout the Public Service. Alternative examining and assessment procedures are used to accommodate individuals with special needs.

As a means of furthering employment equity, the PSC requires that alternative testing processes be offered to persons with disabilities. The PSC also maintains an inventory of work aids that it may lend to departments to accommodate employees' special physical needs until the departments can buy similar equipment. The TBS also may help by authorizing additional funds to departments for such purchases.

The United States has two related terms for employment equity: equal employment opportunity and affirmative action. Each is concerned with efforts to provide fair employment opportunity to all segments of American society. Equal employment opportunity is often viewed as a passive effort, characterized by descriptions of what the employer won't do to exclude certain segments of the population from fair consideration.

Affirmative action, on the other hand, is an active effort. It's usually characterized by positive actions the employer will take to affirmatively ensure fair consideration of all segments of the employment population. These actions can take many forms, including targeted recruiting; restructuring of examinations to remove artificial barriers to certain groups; and offering alternative examination processes for certain groups with handicaps or disabilities. Affirmative action is an integral part of each agency equal employment opportunity program.

Nationally, the U.S. Equal Employment Opportunity Commission administers the equal employment opportunity/affirmative action program. OPM—like Canada's PSC—provides special assistance to persons with disabilities or handicaps when they take employment tests. Also, U.S. law requires employers (including Federal agencies) to provide reasonable accommodation of handicapped individuals on the job, including providing special equipment. Unlike Canada's PSC, OPM doesn't have a "loan" program for such equipment. Neither does it have authority to grant additional funds to an agency as the TBS can to help with such equipment or other physical changes.

Overall, employment equity in Canada roughly approximates equal employment opportunity in the United States, and Canada's four special emphasis programs are akin to various affirmative action/anti-discrimination efforts in the United States. Both countries have a goal of leveling the playing field for all segments of society, so that all may compete fairly for jobs and subsequent advancement.

3. The Effect of Canada's Official Language Requirements

Canada is officially bilingual, with English and French as its two languages. This results in language capability being an important factor in the appointment process. As we'll shortly discuss, the manager is responsible for determining all qualifications for a job. One of the qualifications the manager must address is language capability. Positions may be designated on the basis of language requirement in one of three ways: only English; only French; or both English and French. Further, a position requiring both English and French capability may be designated as "imperative" or "nonimperative." In the former case, the successful candidate must

demonstrate the capability to read, write, and speak the second language at an acceptable level (there are several such levels); in the latter, the candidate must demonstrate the aptitude to learn the second language in a reasonable time (usually 1 year).

Language training is a major portion of the training cost in many Canadian departments and agencies. Training need is generally determined through formal testing, and most employees are subject to periodic retesting to ensure maintenance of a specific level of proficiency.[29] Employees below the Executive Category (but including Senior Managers) are paid an additional sum of $800 per year for second language proficiency in positions requiring bilingual capability.

C. Competitive Staffing

1. Staffing Through Internal Sources

As a result of the apparent preference given to internal candidates by the Public Service Employment Act,[30] Canadian managers normally start to seek staff from within the Public Service. By contrast, U.S. managers generally are free to decide whether to seek internal or external recruits (or both concurrently), although many will elect to start a staffing action with a search for internal candidates. Table 3 compares the relative use of internal sources in the Canadian Public Service and the U.S. Civil Service in 1989.

Table 3. Appointment and Promotion Information, Canadian Public Service and U.S. Civil Service, 1989 [a]

Nature of Action	Full-time permanent[b]	All other categories	Total, all categories
1. External—Appointments to the:			
Canadian Public Service[c]	4,520	5,443	9,963
U.S. Civil Service	107,597	118,291	225,989
2. Internal—Promotions within the:			
Canadian Public Service[c]	21,176	1,763	22,960
U.S. Civil Service			
- Competitive	109,980	Not available	Not available
- Career Ladder	145,379	Not available	Not available

[a] Canadian data are from "1989 PSC Annual Report," table 24 on p. 105, and table 34 on p. 110. U.S. data are from an enclosure to a May 10, 1991, letter to the project manager from OPM's Assistant Director for Workforce Information. Canadian data are for the calendar year; U.S. data are for the fiscal year. U.S. data do not include noncareer SES actions.

[b] Called "Full-Time Indeterminate" in Canada.

[c] The Canadian source document cautions that the sums of the figures do not always equal the totals because personnel documents did not always provide information concerning the type of appointment or the nature of the action.

[29] Some persons are exempted from bilingual requirements because of age and years of service, and some are exempted from periodic testing because of clearly established bilingual capability.

[30] "An Act respecting employment in the Public Service of Canada, R.S., c. P-32, s.1."

a. Initiating Action

When initiating action to fill a position from internal sources, Canadian and U.S. managers take similar steps to define and classify the job,[31] except:

- In Canada, 96 percent of departments and agencies have been delegated staffing authority, while 100 percent of U.S. agencies have this authority.
- In Canada, jobs are classified by the personnel office; in the United States, either the personnel office or the manager does this, depending on how the authority is delegated. (In most cases this is done by the personnel office.)
- The Canadian manager identifies all job qualifications (beyond the basic requirements for the occupation, which are specified by the PSC); the U.S. manager identifies special qualifications unique to the job (such as bilingual capability), but has less latitude in this area, on average, than the Canadian manager, particularly because OPM's qualifications standards (which must be followed) are more prescriptive than are Canada's.
- In both countries managers must begin by considering a broad pool of "priority" candidates. This is a standing requirement for Canadian managers, and the pool is nationwide. U.S. managers are required to do this only infrequently, and the pool they have to consider is normally restricted in size and scope. Because a much greater share of Canadian employees receive priority consideration than is typical in the United States, the next section outlines the Canadian system in detail.

b. Considering Priority Candidates

(1) In Canada

Canada provides its Public Service employees priority consideration for other jobs under more circumstances than does the United States. Employees with priority consideration rights may be appointed without competition, and other candidates can't challenge their appointments in most instances.

Because Canada emphasizes selecting first from among current employees and because Canada makes intense efforts to place its numerous categories of priority candidates, proportionately few such employees end up without jobs. For example, during 5 recent years of continuous workforce reduction, only 4 percent of Public Service employees eligible for all categories of priority consideration actually were laid off. In a comparable situation, it's unlikely that surplus U.S. civil servants would be retained to as great a degree.

Before proceeding with a competitive action, the Canadian manager reviews PSC files of priority candidates to surface individuals with priority rights to any job for which they are qualified. If the PSC office has no priority candidates, it issues a "clearance number" and authorizes the competitive staffing action. The PSC tries to minimize the time required for this phase. For example, the National Capital Region office has set goals of 3 days without a priority referral and 6 days with referrals.

In order of preference, the following five categories of employees or former employees have priority status over other candidates for jobs in Canada's Public Service:[32]

[31] This general statement covers most situations. There are also "rank-in-person" situations, such as research scientist jobs, where the position is not classified in advance.

[32] The eligibility information that follows comes from the Public Service Commission of Canada's "Staffing Policies and Guidelines," August 1989, pp. 6, 29-30. This source is referred to subsequently as the "Staffing Policies and Guidelines."

As specified by statute:

1. Persons who are returning from a leave of absence of more than 1 year (if their original positions were filled during their absence).

2. Ministers' staff.

3. Persons who have been laid off (this group has rights for 1 year from date of lay-off).

As specified by PSC administrative ruling:

4. Employees who have been declared surplus with or without a scheduled lay-off date.

5. Employees rejected during probation. Canada requires a probationary period of 6 months or 1 year after each appointment (including promotion). Managers may waive or reduce this period for persons appointed from within the Public Service, but not for new hires. If an indeterminate (permanent) employee is appointed from within the Public Service and fails during probation, the PSC will use the Priority Administration System to attempt to find that individual another job. The PSC may make the same effort for new hires who are rejected during probation. This priority consideration is granted only during the mandatory notice period for rejection during probation—1 week to 1 month, depending on the kind of job and source of current appointment.

If individuals in any of these categories are selected, their appointments are made without competition, other candidates don't have to be considered, and other employees have no recourse against most such appointments.

Furthermore, the PSC has granted other employees priority consideration after the statutory and administrative priorities are considered. These employees, if fully qualified for the position, also may be appointed without competition. They include (in no order of preference):

- Employees who can't meet the language requirements of their positions.
- Surplus or laid-off employees who have accepted a lower level appointment and who wish to be considered for positions at their former level.
- Employees on leave for spousal relocation (even if the relocated spouse isn't a public servant).
- Employees who were relocated as part of a decentralization of their organization and who are entitled to return to their former location.
- Employees whose positions have been reclassified to lower levels.

In addition, people with priority status derived from downsizing situations who could be qualified for a job with retraining must also be given priority consideration. The manager must determine the kind and amount of training they would require, and the time the training would take. Up to 1 year of retraining is mandatory; up to 2 years may be allowed in some circumstances. A manager who doesn't want to take such a person must submit to the PSC a written evaluation of the case documenting his or her objection to the selection.

While each employing Canadian department has primary responsibility for assignments for its own priority employees, each regional or district PSC office maintains an inventory for its jurisdiction to facilitate the placement of persons entitled to priority consideration. These placement efforts and Canada's emphasis on selecting first from among current employees have a powerful effect: during 5 years of continuous workforce reduction, only 4 percent of employees eligible for all categories of priority consideration actually were laid off.

(2) In the United States

U.S. managers also must give some employees additional priority consideration rights. The U.S. approach gives very specific rights to employees in seven narrow circumstances, and all employees rights in the event of staff reductions or upon recovery following separation

because of compensable injury. In instances involving staff reductions, the U.S. approach gives more latitude to agencies than does Canada's, and the U.S. approach doesn't include Governmentwide provisions.

U.S. managers also must give priority consideration to some employees. In some cases, very broad rights (including the right to appeal non-selection to MSPB) are granted under specific conditions that have the potential to affect small numbers of employees.[33] Additionally, reemployment priority consideration must be given to all individuals (1) separated because of staff reductions or (2) who have recovered after compensable injuries.

While the scope of the U.S. staff reduction provisions are as broad as Canada's provisions, the guidance that implements them is less prescriptive than Canada's. For example, OPM requires an agency that is reducing staff to establish a placement program, but gives the agency discretion to determine the content of the program. And OPM administers an Interagency Placement Assistance Program through which employees who have been identified for separation, but not yet separated, receive priority referral. Further, agencies must enroll separated employees on agency reemployment priority lists, and separated employees may enroll in an OPM program that gives them 2 years' priority referral. There is also a provision for noncompetitive transfer into the competitive service of involuntarily separated former employees of the legislative and judicial branches under certain conditions.

While they may be extended beyond the commuting area within an individual agency, in most cases "commuting area" is the geographic scope for these U.S. efforts. In addition, U.S. programs for separated employees don't usually take precedence over purely internal staffing actions affecting other employees, including promotions.

c. Starting the Competitive Process

In being free to fill a job at a level below its full performance, U.S. managers have—and use—an important flexibility that allows them to consider good candidates with potential but who lack all of the qualifications for the full-performance job (including time-related requirements established by OPM concerning total experience and experience in the next lower grade). Canadian managers follow a similar practice only infrequently because of appeal board and court decisions that limit this practice.

Canadian and U.S. managers take similar actions and have similar choices in deciding what the area of competition (the source of candidates) will be; determining the means of identifying candidates (such as searching inventories or soliciting candidates through vacancy announcements (called "posters" in Canada); and deciding what categories of employees to consider.

Canada has a relatively large pool of "term" employees who may be considered in addition to indeterminate (permanent) ones. Term employees are employed for fixed terms such as 6 months, and—in the Canadian scheme—represent an important internal Canadian applicant pool for subsequent indeterminate employment.[34] The United States also has term employees but their numbers are small, making them relatively unimportant as a candidate pool.

[33]Examples of these situations, which are found in Part 352 of the Code of Federal Regulations, include: reinstatement rights after service under certain provisions of the Foreign Assistance Act of 1961; reemployment rights under the Taiwan Relations Act; and reemployment rights after service with the Panama Canal Commission. In all, these regulations cover seven different circumstances.

[34] Canadian term employees are hired through the competitive process, but aren't eligible for many employee benefits. Further, if their term of employment is for less than 6 months, they aren't subject to collective bargaining provisions. Instead, the Government sets their terms of employment. Those whose terms are for less than 6 months (most of whom work for eight departments with specific authority to hire such short-term employees) don't pay union dues and may be separated with as little as 1 day's notice. Term employees whose tours exceed 6 months are protected by the Public Service Employment Act, pay union dues, and are subject to all provisions of applicable collective bargaining agreements.

U.S. managers have one decision to make that isn't usually afforded their Canadian counterparts: to fill the job at the full performance level, or at some level below full performance.[35] The U.S. manager can announce the vacancy to consider only people who meet the job fully, or to consider less experienced people with growth potential, or even both categories concurrently. An individual selected below the full-performance level may subsequently be promoted noncompetitively to the full-performance level. These noncompetitive career ladder promotions (essentially "pay paths to maturity") are not guaranteed; they must be earned.

This is an important flexibility given to U.S. managers who otherwise would be restricted in whom they could consider because of two Civil Service requirements: (1) that an individual have 1 year of experience at or equivalent to the next lower grade[36] when being considered for promotion or hiring; and (2) that a person being considered for promotion have 1 year of service in grade at the next lower grade. Because of these time-related requirements, people who might otherwise be good candidates sometimes simply won't be considered.

The Canadians call the practice of filling a job below its full potential "underfilling." It is more formally identified as a training or career progression program, and is practiced on a limited scale in Canada. PSC and TBS officials described its use as largely pertaining to "apprentice-like situations." Subsequent discussions identified a few examples of underfilling: (1) in the Department of National Defence newly graduated engineers enter at the lowest grade and advance through the next two engineering grade levels noncompetitively based on time and performance; and (2) the Department of Labour treats Labour Affairs Officers similarly. This practice is similar in concept to the U.S. practice when managers decide to fill a job at some level below full performance.

"Underfilling" isn't widespread in Canada because of appeal board and court decisions that have said that if a person is qualified for a position, that person is entitled to the full level of the position. To establish career ladder situations similar to those in the United States, Canadian managers have to go through gyrations in the classification process, redescribing the job temporarily at a lower classification level for recruiting purposes. They then arrange its reclassification when the incumbent is ready for the full duties. U.S. managers also must describe every classification level for a career ladder, but for them it's a normal part of doing business. The Canadian system doesn't consider this routine. Instead, the Canadian tendency is to view every Public Service job as "full performance."

d. Determining Assessment Tools

Canadian Public Service assessment panels routinely allow for face-to-face contact with candidates, giving them the opportunity to demonstrate in person their job-related qualifications, personal suitability, and other qualities. The U.S. Civil Service, emphasizing a review of a paper record, provides for almost no face-to-face contact between the panel and the candidates. Thus, some top-notch candidates may be eliminated because of the one-dimensional means they have to present themselves.

Canadian and U.S. managers both determine the tools that will be used to assess candidates, and the relative weight to give to each measurement tool. However, they are likely to use very different tools, as discussed below.

[35] The full-performance level is the grade assigned to the job where the full range of duties and responsibilities is performed. Many jobs can be defined in terms of lower grades, at which levels the "whole" job isn't done--perhaps the individual requires closer supervision, for example. These intermediate or trainee levels constitute a grade and salary progression leading to the full-performance level.

[36] Some Civil Service occupations progress at single-grade intervals (e.g., GS-5 to GS-6); others progress at two-grade intervals (e.g., GS-5 to GS-7). OPM determines and publishes the progression pattern for each occupation.

(1) In Canada

The PSC has invested heavily in training managers for the task of determining and using assessment tools. Additionally, the PSC has made a considerable effort to give assessment training to staffing officers in the servicing personnel offices. Interviews confirmed that these officers provide valuable technical assessment guidance to managers.

Characteristics of the Canadian process include the following:

- Much face-to-face contact between an assessment panel (including the manager) and candidates, with candidates who have work experience having the opportunity to demonstrate job-related knowledge, skills, and abilities, plus personal suitability, aptitude, and other qualities. Emphasis is on personal contact during the assessment, so even assessment of entry-level candidates doesn't rely solely on a "paper review."

- Managers may use any of a variety of assessment instruments made available by the PSC. Their use is not usually mandatory. Written tests may serve as a screen, perhaps to reduce the number of candidates. Also, managers may develop their own instruments, including role-playing exercises, or use "generic" ones developed by their departments or units.

If a manager uses a PSC assessment tool (e.g., a written test), the PSC provides information about what the tool measures. The manager is then responsible for using the tool only for that purpose. Misuse may result in problems for the manager if, during an appeal by an unsuccessful candidate, a PSC official testifies on the assessment process that has been followed and confirms the misuse.

- References are usually checked during the assessment, and consideration may be given to previous performance ratings, but this is not mandatory. Canada has no performance awards program similar to that of the U.S. Civil Service, so previous awards aren't a consideration.[37]

- The results of the assessment of each candidate are combined in a manner determined in advance by the manager, producing a final score for each candidate.

(2) In the United States

U.S. managers perform similar tasks, determining the knowledge, skills and abilities (KSA's) required for the job and the relative importance of each. These are expressed as "quality ranking factors" against which the candidates will be measured. U.S. managers also identify the kinds of work experience, education, and similar past experiences that are suitable evidence of the KSA's. This information on past accomplishments and activities, which is used to predict future accomplishment, is described in a tool called a "crediting plan." Prepared or approved by the manager, the crediting plan is used by a promotion panel to evaluate all basically qualified applicants.[38]

Before applying the crediting plan, the panel determines how to score each quality ranking factor and how to combine the individual factor scores into an overall final score. The panel then assesses the candidates, usually on the basis of the paper record provided by the applicant.

The U.S. process emphasizes the paper record to a much greater degree than does Canada's. There is no face-to-face contact between the panel and the candidates. The panel's primary source for information about the candidates is usually a standard form submitted by each candidate which provides

[37] The Management Category's pay-for-performance system is far more restricted in its use than is the Civil Service's performance awards program.

[38] To be "basically qualified," candidates must meet requirements (including time in grade) established by OPM. These usually are expressed in terms of kind, level, and total length of creditable experience, with provision to substitute education for part or all of the experience.

information about previous jobs, education, training, and other considerations.[39] In addition, performance appraisals and past awards must be considered in the United States.

e. Conducting the Candidate Assessment

The PSC and OPM both prescribe minimum (basic) qualifications for each occupation. Canada's are expressed in very broad, generic terms; those in the United States are much more specific. When preparing to assess candidates, the Canadian manager has substantial authority to determine all specific qualifications for the job (beyond the basic ones) and also almost always sits on the assessment panel. In contrast, the selecting U.S. manager usually determines (1) any special qualifications for the job and (2) the factors used to judge candidates' relative quality, but usually doesn't serve on the panel.

Assessments are conducted quite differently in the two countries, as discussed below.

(1) In Canada

Except in rare cases, Canadian managers are directly involved in every step of candidate assessment. Thus, the selecting manager is almost always a member of the promotion panel,[40] which usually comprises two or more people with subject-matter knowledge. The panel members' three tasks are as follows:

1. They begin by agreeing on how to weight and score the results of each assessment tool, and what combined score is "passing." It's important for these decisions to be clear and defensible.

2. They then assess all candidates who believe they meet the stated job qualifications and who apply. These are qualifications that the manager established. Applicants also have to meet very broadly worded, basic eligibility criteria established by the PSC for the occupation. Since Canada doesn't have any time-in-grade restrictions[41] (ruled not enforceable by the Federal Court of Appeal), the candidates probably include people in various grades. Since Canada also doesn't have an awards program, consideration won't be given to previous awards.

3. Finally, they score each candidate's assessment results and combine those results into a total score. The candidates are then placed in order of merit (rank order) on an "eligibility list." The manager determines how long the eligibility list will be in effect. The initial period may be from 1 day to 1 year; it can be extended incrementally for not more than 1 year beyond the initial period. Longer initial periods are logical when the manager expects multiple vacancies over an extended time.

(2) In the United States

The U.S. Civil Service also uses promotion panels, but selecting officials usually don't serve on them. OPM guidance discourages their participation in all but "exceptional" situations, and most agencies' supplemental merit promotion plans prohibit it. A panel can have one or more members, and one or more should have subject-matter expertise. A personnel office employee should be on the panel or work with it, to ensure procedural correctness.

Although the manager usually stands aside (after doing the preparatory work) and allows what should be a disinterested body to assess the candidates, the manager may determine who sits on the panel. Since the manager may include trusted subordinates who have an interest in the outcome even if they are not in the selection chain, the presence or absence of

[39] If a centrally maintained candidate inventory is being used instead of a vacancy announcement, equivalent information will be in the inventory.

[40] This option is always available to the manager. It is rarely not excercised. Examples of situations where it may not be would include (1) administering written tests; or (2) situations where a number of similar positions across a region are to be filled at once. In such latter instances a small number of selecting officials (but probably not all) would make up the assessment panel.

[41] However, the Department of External Affairs comes close to having this concept, requiring a minimum number of annual performance ratings before an employee is eligible for promotion consideration.

managerial influence may not substantially differ between agencies where selecting managers serve on panels and agencies where they don't.

In addition to considering the standard application form, performance appraisals, and awards information mentioned in the previous section, the panel will probably receive from each candidate supplemental information specifically addressing how the individual meets the quality ranking factors for the job. And there may also be an assessment of each candidate's potential for the new job completed by a current or recent supervisor.

As in Canada, the U.S. promotion panel ranks candidates. However, it designates the top scoring candidates as "best qualified"; the rest will be "qualified." However, in contrast to Canadian practice, in a typical U.S. situation the cutoff score between the two groups would probably have been tentatively set before beginning the assessment, with the final "best qualified" cutoff score being set after all scoring is completed. The cutoff isn't set arbitrarily—the panel looks for some logical breakpoint in the range of scores.

The panel's last task, regardless of the scoring approach followed, is to list the highly qualified group on a promotion certificate, either in rank order or alphabetically to mask their scoring differences. The limit on the number of highly qualified candidates may vary considerably—perhaps as few as 3 or as many as 10 for one position. The limit is determined by individual agency merit promotion plans; the actual number may be influenced by where in the range of scores a logical break occurs.

f. Making the Selection

Canadian Public Service managers must appoint to a vacant position the person whose name appears first on the list created as a result of the assessment process. In contrast, U.S. Civil Service managers may select anyone named on the promotion certificate. On balance, however, Canada's "rule of one" doesn't mean Canadian managers have less overall choice than U.S. managers; the Canadians decide on the job qualifications and sit on the assessment panel, two functions which give them considerable control in determining the order of names on the "eligibility list."

Since Canada operates under what we call a "rule of one," the Canadian manager must appoint the person named first on the "eligibility list." In contrast, the U.S. manager may select anyone named on the promotion certificate, because being identified as "best qualified" establishes a degree of equality for this group. The manager first does any further assessment of this group that he or she considers desirable (typically reference checks and interviews) but may not subject the candidates to formal examining without OPM's approval.

The U.S. manager's final choice probably will be based on multiple considerations, such as how the candidates' individual strengths and weaknesses match those of the rest of the staff in the office, and equal employment/affirmative action objectives. With respect to this last point, most Canadian managers interviewed for this study indicated that this is the one way in which the U.S. approach offers greater flexibility than does theirs.

Interestingly, when U.S. managers indicate interest in filling a job at more than one grade level, they receive more than one certificate. This, of course, increases the number of candidates they may consider.

There is one final point of comparison: the U.S. promotion certificate is valid for a relatively short period of time, usually 90 days or so.[42] If a second

[42] The time limit is set by the agency merit promotion plan. It is necessary because, with time-in-grade limitations on who can apply for promotion, the pool of potential applicants is ever-changing.

vacancy (involving the same kind of job) occurred during this period, the manager could—but would not be required to—make a selection from among the candidates listed on any of the certificates already prepared. However, it's unlikely that a lengthy extension of the certificate would be permitted, and extensions of up to 1 year, like those permitted in Canada, would be exceptional. Many U.S. agencies use "continuously open" vacancy announcements in situations involving jobs with very high turnover, which avoids the need to extend the life of promotion certificates.

After considering selection procedures in the two countries, it may appear that because of Canada's "rule of one," Public Service managers have less flexibility than U.S. managers. However, because Canadian managers determine the qualifications and serve on the panels, they exercise choice—control—throughout the process that establishes the "eligibility list." As one manager explained to us:

> When you establish the necessary knowledge, skills, abilities and the like, "personal suitability" is the area where the manager has the most flexibility. For instance, I could have my written test, my interview, and the whole process, and if I had a candidate I really wanted to win, I could give everyone else "0" in "personal suitability" and my candidate "20." I'd be closely questioned by personnel—and I should be—but I could.

What keeps Canadian managers from routinely abusing their extensive staffing flexibility? First, there are a series of checks, similar to ones found in the United States. These include advice from supporting staffing specialists and audits after the fact. In addition, there is a check on Canadian managers not found in the United States: nonselected Canadian candidates have the often-exercised right to challenge a decision in a "closed competition" through a statutory appeal process. While the appeal process may not often change a selection outcome, it holds out the possibility of doing so. And it threatens to add more time to—or even negate—the rather lengthy competitive process. Knowing this helps prevent Canadian managerial abuse of staffing authority.

g. Variations for Executives and Senior Managers

While the PSC has delegated staffing authority to nearly all Canadian departments for positions outside the Management Category, it is responsible for the staffing process for Senior Management (SM) and Executive (EX) positions (which together make up the Management Category). However, departmental managers still make the selection. In the United States, all departments have staffing authority for all Senior Executive Service and nonexecutive positions. Other practices that apply only to these higher levels of jobs are discussed below.

(1) Seeking Senior Manager and Executive Candidates

Canada's PSC controls or coordinates recruiting for the Management Category. The recruitment pool for this group is a mixture of internal and external candidates. The pool's approximately 4,700 internal candidates are part of a PSC-maintained inventory of roughly 35,000 internal candidates for Public Service jobs nationwide.

In the United States, OPM plays no role in recruiting SES candidates. A number of U.S. agencies have formal competitive Senior Executive Candidate Development Programs (and OPM offers an Inter-Agency program) to develop candidate pools for executive vacancies. If a selection is not made from an agency's formally established candidate pool, the law requires considering candidates from the agency and other Federal agencies, and allows recruiting from outside the Government.

While OPM has no SES recruiting role, it does (through a Qualifications Review Board) approve the managerial qualifications for individuals selected for career appointments. An agency board is responsible for approving the technical qualifications of the selected individual. This use of Qualifications Review Boards, which are essentially peer panels, to

assess newly selected executives' qualifications is one of the unique features of the SES. There is nothing like it in Canada.

(2) Appeal Rights in Canada

Within the Canadian Public Service, a key difference between the Management Category and other positions is that the first appointment to a Management Category position resulting from internal selection is appealable (i.e., a person who is not already an SM or EX and unsuccessfully competes for such a job can appeal nonselection). However, once in the Management Category, a person cannot appeal subsequent appointment actions within the Category.

(3) Politics and Executive Positions

All Canadian Public Service executive positions are politically neutral, while up to 10 percent of comparable U.S. positions—i.e., SES positions—may be noncareer, usually political.

A major difference between Canada's EX positions and the SES is that, Governmentwide, up to 10 percent of the SES may be noncareer (usually political) people; Canada's EX are all politically neutral. Canada also needs a cadre of political executives in its government, but its Public Service tradition of absolute political neutrality prevents these individuals from being in the Public Service. Rather, through legislation, Canada has created certain positions that may be filled through an "Order in Council" or order of the "Governor in Council." These are roughly equivalent to jobs in the United States in the excepted service filled through Presidential appointment, with or without Senate confirmation.

(4) "Brokering" of Executives

For EX jobs, the PSC "brokers" certain categories of internal candidates noncompetitively before proceeding with competition. In addition to executives with priority consideration rights, these applicants may include current executives who probably should change jobs because of particular work circumstances related to them personally (e.g., a competent person involved in a personality conflict with his or her boss). A second type of noncompetitive movement is redeployment, or the movement of an individual without promotion for the purpose of broadening his or her experience. After considering individuals in these situations, the PSC proceeds with competition. OPM offers a similar brokering system for U.S. senior executives.

In some cases in Canada, if brokering an executive is tried and fails, the employing department may ask the Treasury Board Secretariat for authority to negotiate a separation agreement with the individual executive. This agreement amounts to a compensation package that will encourage voluntary separation, and is a flexibility not available to U.S. managers.

(5) Executive Jobs at the Very Top

The top Canadian public servants in each department are known as Deputy Ministers. These generally are career public servants who are directly below the politically appointed Ministers. Staffing of Deputy Ministers is carried out through the Privy Council Office, which acts as both an arm of the Prime Minister and as secretariat for the Cabinet and all of its committees. Deputy Ministers are all appointed by Orders in Council.

As Canada's top public servant, the Clerk of the Privy Council (who is also Secretary to the Cabinet) has authority over the selection and placement of Deputy Ministers, and for evaluating their performance. If there is a conflict between a Minister and Deputy, the Privy Council Office may arrange a new appointment for the Deputy.

The United States doesn't share either the concept of a top civil servant or of a single person having authority over other top-level career civil servants Governmentwide. In the United States, when the White House's Office of Presidential Personnel exercises control over sub-Cabinet political

appointments, it takes on a role somewhat like that of Canada's Privy Council Office. There is more contrast than similarity in these two roles, however.

h. Post-Selection Activity

In some Canadian departments the assessment panel conducts a meeting with each candidate after the eligibility list is published, to explain how the candidate was viewed relative to the job requirements and to answer any questions. In the United States a similar opportunity isn't routinely offered to unsuccessful internal applicants.

In both countries, all nonselected candidates for internal selection have a right to know what contributed to their nonsuccess and what they can do to improve their competitiveness for similar jobs in the future. Some Canadian departments have initiated a very positive process to accomplish this purpose: the assessment panel schedules a meeting with each candidate after the eligibility list is published. At these meetings, the panel tells the candidate how it viewed that person relative to the job requirements, and answers questions the individual may have about the assessment process, including scoring. Interviewed managers who reported taking this extra step view it as an important means of helping to eliminate concerns of unfairness, and a possible means of reducing appeals.

In the United States similar information isn't routinely offered to unsuccessful internal candidates. However, they may ask for information concerning how they were viewed against the quality ranking factors, and may ask for suggestions on how to improve their future chances. This information will probably be provided by a personnel office representative rather than by members of the panel.

2. Staffing Through External Sources

The process for external hiring in Canada is virtually identical to the process for internal appointments, except that veteran's and citizen's preference become considerations. While the Public Service Commission performs a central examining role, this is essentially a screen to ensure that applicants meet minimum qualifications for the occupation. Canadian managers still exercise considerable control over all phases of the selection and appointment process for the actual position even though, as with internal selection, they are required to select the first person named on the list of eligibles that their efforts produce.

In contrast, the U.S. Civil Service process for external hiring is very different from the one for internal selection. In external hiring, the Office of Personnel Management (or agencies delegated authority by OPM) conducts central examining of candidates for jobs filled through the normal competitive process, and refer a number of the top candidates to managers. Managers must select from among the top three candidates available on the list referred to them, and preference is given to veterans. While managers may subject referred candidates to some assessment, further actual examining of them is not permitted.

Canada's process for hiring new people into the Public Service (called "open competition") is essentially the same as for "closed competition," differing only in two aspects. First, with the exception of the National Capital Region, local Canada Employment Centre offices provide the pool of outside applicants who may be considered for clerical and blue-collar jobs where recruiting is generally limited to the local community. For all other jobs (and for all jobs in the National Capital Region), the PSC provides the applicant pool.

The Public Service Commission offices (and Canada Employment Centres in the instances just described) accept applications and administer certain examinations that serve as screens for Federal employment. In essence, these examinations are occupational screens—passing them establishes an individual's eligibility to compete for jobs in the occupation. The offices then maintain inventories of eligibles who are referred for competition when an agency receives a clearance number and authority to hold an open competition.[43] These inventories are kept for a relatively short time, such as 6 months to 1 year.

The other Canadian difference is that in open competition the final rank order of the successful candidates is modified to give preference to certain candidates: first, to two different veterans categories, and second, to Canadian citizens.[44] If no qualified Canadian citizens are among the successful candidates (candidates with passing scores following the assessment), a qualified non-Canadian may be appointed.

When the applicant inventories are referred to the Canadian manager, it isn't for selection in rank order as referred. Rather, it's for the manager to assess the candidates against job-specific qualification requirements he or she has established, using assessment tools he or she determines. Selection is from the eligibility list established after this assessment.

Differences between internal selection and new hiring are greater in the U.S. Civil Service than in the Canadian Public Service. One U.S. difference parallels one of Canada's: the United States grants preference to certain individuals based on their status as veterans or survivors of veterans.

Other internal U.S. differences are more fundamental. For example, OPM is responsible for candidate assessment for new hires.[45] OPM may exercise this responsibility directly by receiving applications, examining and rating applicants, and determining their relative ranking for employment, or indirectly through agency-operated examining offices operated under delegation agreements between OPM and many agencies. Candidates with passing marks are eligible for referral for employment.

When an agency wants to fill a vacancy through outside sources it asks OPM (or the agency examining office) for a list of eligibles, called a certificate. The manager defines the requirements of the position (specific skills, experience, or abilities, plus any special requirements such as bilingual capability), but OPM is responsible for identifying the candidates who may be considered for employment, and their rank order. In this regard, OPM's control is greater than that of the PSC. Put differently, one could say Canadian managers have greater hiring empowerment than their U.S. counterparts.

A certificate may contain a relatively large number of names, all of which will be presented in rank order (including points added for preference eligibility). The manager is required by law to select from among the top three candidates available. This requirement is called in the United States the "rule of three."[46] The term "available" is important, since not every candidate on the certificate may be interested in the offered job. A manager's choice is further limited by the fact that a person with veterans preference may be passed over (to reach someone without this preference) only with OPM's permission.

While this process sounds quite limiting, there are ways the U.S. manager can induce flexibility. For example, it's perfectly permissible to "name request" a candidate. This means asking OPM to include a specific individual on a certificate if that person's score makes doing so possible. OPM usually honors

[43] The section on recruiting identified some exceptions to this rule, involving departments that are sole or major employers of a particular occupation and which accept the applications for that occupation.

[44] Veterans preference has little practical effect in Canada since it currently is based only on service related to World War II or Korea. A Canadian decision is pending on service related to the 1990-91 Gulf War.

[45] An exception is that agencies are responsible for approving the technical qualifications of career SES selections.

[46] This requirement was originally established by Presidential order, was adopted administratively by OPM's predecessor (the Civil Service Commission) as a Civil Service Rule, and was incorporated into law in 1944.

such requests. It's also possible that the written position requirements may limit the number of candidates who can qualify and thus get on the certificate. Although these means may help the manager influence the content of the certificate, selection still must be based on the "rule of three."

OPM has a general prohibition against agencies further examining candidates who have successfully negotiated the OPM examination process. However, this prohibition doesn't prevent assessment to distinguish among candidates' relative quality. Consequently, the manager may well use assessment tools beyond the interview to help make the selection, but could not use the results of these additional assessment tools to object to any candidate on the certificate.

3. Evaluating the Two Countries' Competitive Staffing Processes

What are the strengths and weaknesses of the two processes? The U.S. internal selection process places considerable faith on the use of a disinterested panel to assess the relative strengths of candidates, and it usually asks that panel to make its distinctions on the basis of a paper record. These characteristics of the internal selection process suggest three weaknesses: (1) the panel may not really be disinterested since it usually includes people who could be influenced by the selecting manager and can even include that individual; (2) no matter how disinterested and fair, the panel members may have difficulty doing their job well if the assessment tools are not very good and their knowledge of how to apply those tools is limited; and (3) making decisions based on a paper presentation could mean that some top-notch candidates may be eliminated because of the one-dimensional (written) means they are provided to present themselves. On the other hand, a strength is that the persons who clear this hurdle are all deemed to be best qualified for selection. Thus, the manager may choose anyone in this pool and, except for unlawful discrimination, cannot be challenged.

The U.S. external competitive selection process relies on central examining by a single agency (OPM), although the manager can influence the process (e.g., through "name request"). The process also gives the manager some flexibility (the rule of three) in selecting from among the candidates referred. However, the U.S. manager is precluded from further examining the referred candidates when assessing them.

In contrast to the U.S. system, the Canadian system gives the Canadian manager substantial authority to determine both a job's qualifications and the means of assessing how well candidates possess those qualifications. However, in doing this the Canadian system creates a possible conundrum. This system's main strength is its job-specific assessment by the manager. This same provision is also the system's key potential weakness vis a vis the merit system.

Why? Because a manager may make the assessment so directly related to the job that only someone who has already done the job could possibly do well during the assessment. For example, one manager we interviewed told us a manager could use assessment questions such as "name the statutes that govern such and such," or "tell us how many steps there are in such and such a process." Other interviewed managers similarly reported that narrow job-specific questions are frequently used. "Many times rankings—and thus selections—[in closed competitions] are determined by how well the candidates can quote chapter and verse from our [program] regulations," said one.

The substantial assessment authority given to Canadian managers is a tremendous responsibility. Assessment is not easy; the techniques are relatively well developed in some areas and still developing in others. Canada's approach requires a substantial investment in training and guidance for managers who then may not use the knowledge gained very often. As a result, even well-trained managers may not perform the assessment task well. Thus, while the Canadian process allows face-to-face assessment

in multiple dimensions, the outcome has much the same potential for flaw as does the U.S. process, but for different reasons.

Although apparently not widely practiced, the Canadian process of having the assessment panel give feedback to all unsuccessful candidates following a closed competition is a strength. Meeting with candidates to explain why they were unsuccessful can't always be easy, but it does mean the panel must really think through its position. And it gives the panel an opportunity to show each candidate what it thought of him or her. The U.S. approach, by contrast, puts the onus on the individual to ask for such information—something not too many people are willing to do.

The rather widely used U.S. practice of noncompetitive career ladder promotions following competitive selection appears attractive for two reasons. The first reason is the sense of opportunity to grow in the job that this concept gives to many U.S. civil servants. Although not every job offers career ladder growth, many do, including most professional and administrative jobs being filled at the entry level. In these instances, the affected U.S. civil servant appears to be given a clearer sense of long-term career potential than is a similarly situated Canadian public servant.

The second reason is pragmatic: the competitive selection processes in both countries often are slow and require a substantial investment of managerial time. Thus, each opportunity to promote an individual primarily on the basis of a manager's assessment of the individual's performance represents a resource savings. For managers with large staffs, this savings could be substantial.

4. Conclusions

The Canadian process of assessing candidates should be attractive to U.S. managers, except for the amount of time it may take. To quote one tongue-in-cheek Canadian manager, "If length of time equates to the quality of the process, [our's] is a very good process." The ability to assess potential employees face to face for a specific job, using job-related tasks or other valid measurements, seems compatible with emphasis by both the Civil Service Reform Act[47] and the current administration[48] to increase U.S. managers' personnel authority. In fact, OPM officials suggested that this process is more or less followed now for some higher level jobs, at least in limited settings.

Grafting some variant of the Canadian assessment model onto the U.S. hiring (but not necessarily promotion) process would appear to offer U.S. managers greater opportunity to: (1) make better employment selections—ones more directly related to the specific job being filled; and (2) strengthen their authority over the hiring process. Undoubtedly, the price for these gains would be high: (1) a need for considerable additional managerial training; (2) greater investment of managerial time; and (3) probable need for revised protections against managerial abuse.

The feedback practice of some Canadian departments—meeting individually with each unsuccessful candidate for internal selection (promotion)—is worth considering in the United States whether or not other aspects of the Canadian system are applied. While time-consuming and likely to result in some unpleasantness, an opportunity to receive this information routinely from the panel—and with the onus on the panel to offer it— could have beneficial results for the individual and agency.

[47] "[T]he function of filling positions and other personnel functions in the competitive service and in the executive branch should be delegated in appropriate cases to the agencies to expedite processing appointments and other personnel actions * * *," (H.R. 11280, Title VII, Findings and Statement of Purpose, Sec. 3 (4)), quoted from "Legislative History of the Civil Service Reform Act of 1978," Committee on Post Office and Civil Service, House of Representatives, March 27, 1979, Vol. No. 1, Washington, DC, p. 2.

[48] "* * * I would take steps to initiate policies and programs in support of [the President's] campaign commitments to include * * * removing impediments to management and encouraging workforce creativity [and] * * * delegating responsibility for personnel operations to the departments and field installations to the maximum degree feasible." Quoted from "Pre-Hearing Questions and Answers Submitted to the Committee on Governmental Affairs, United States Senate, by Constance Berry Newman, Nominee for the Position of Director, Office of Personnel Management, May 1989," p. 3.

D. Noncompetitive Position Changes

1. Discussion

Both countries provide for noncompetitive staffing processes under certain circumstances. One consequence of these processes is that some individuals may gain specific job-related experience that leads to an advantage in subsequent competitive appointment actions. Both countries impose controls to minimize this side effect; those of the United States appear to go further than those of Canada in achieving this purpose.

A key difference between the country's approaches is that, in Canada, the noncompetitive process requires the agreement of three parties—the gaining and losing managers and the employee involved—while in the United States the process doesn't require the employee's agreement.

Because Canada's competitive staffing process can be (and usually is) slow, Public Service managers meet urgent staffing needs by using noncompetitive staffing actions that are exempt from the more rigorous merit selection requirements associated with the appointment process. With one exception, these processes are similar to ones used in the United States.

There are five Canadian staffing situations where managers may appoint individuals without competition that have U.S. equivalents. These five Canadian situations are: reclassification; reinstatement; reappointment of term employees (basically extending the term appointment before it expires); transfer (moving from a job at a particular grade level to a different job at the same or a similar grade level); and advancement in certain training situations involving formal training and a previously established career progression plan.

"Acting appointments" are a sixth procedure available in both systems with roughly similar rules. Acting appointments generally equate to temporary promotions—an individual is named "acting" in a higher level position and is paid for the higher level duties during the "acting" period. Since staffing actions to fill positions permanently can take weeks or months in both countries, and since positions involving "acting" situations often involve supervisory or managerial tasks that can't go undone, the acting appointment is a necessary staffing tool.

In Canada, a manager may ask an employee to act temporarily in a higher position for up to 4 months without other employees having the right to appeal. If the situation will last more than 4 months, an acting appointment formally takes place and other employees may have appeal rights. Interestingly, competition for acting situations is permissive, not mandatory. Further, if competition is held, the manager may restrict the area of competition. Acting appointments of up to 1 year may be made without approval of the PSC, but longer periods require PSC approval. There are no established maximum time limits.

OPM regulations and guidance governing temporary promotions apply in most acting situations in the Civil Service. Under OPM's guidance, noncompetitive promotions are limited to 120 days. After that, the manager may: (1) rotate other employees through the position noncompetitively, or (2) follow competitive procedures and make a longer temporary promotion. A temporary promotion may be made for a specified period of up to 1 year, and may be extended for an additional specified period not to exceed 1 year, for a maximum total of 2 years.

The real difference in the rules of the two systems is in the requirements for competition. The U.S. requirement for competition after 120 days is intended to limit the noncompetitively earned advantage for subsequent competition, or to spread the advantage among several probable candidates. By permitting 1-year or longer acting appointments without competition, Canada's approach doesn't seem to offer the same degree of protection against gaining an advantage through experience. However, granting other employees the right to appeal after someone else has been "acting" for 4 months does offer those other employees a means of protection. Certainly,

experience gained through "acting" situations can be a real advantage in Canada's very job-specific assessment process.

Another staffing mechanism that Canada uses—"assignment" or "secondment"—is similar to "detail" in the United States. Usually an "assignment" is an action taken to give new functions to an employee for a temporary period. "Secondment" is a special form of assignment taken between two different managers (the loaning of an employee by one manager to another). These two forms of staffing action do not grant the employee tenure in the new position. They often are used to permit an employee to gain broader experience in his or her occupational field or to gain experience in a new function. They are valuable to managers because the Canadian system imposes restrictions on managers' rights to reassign employees.

Both assignment and secondment may be initiated by the individual, and require agreement of all three parties (both offices or agencies and the concerned individual). They're usually effected by means of letters of agreement and may be terminated by any of the three parties. Since public servants often roll the two terms into the single term "secondment," we'll use that for the rest of this discussion.

Secondments are widely viewed as a means of permitting longer term employees (including ones whose careers are stagnating) an opportunity to explore change—in another career field, another organizational setting, or even both. They are also a way for "rising stars" to round out their experience.

Secondment provides a much-needed flexibility to an often-cumbersome Canadian staffing process. However, it is truly a double-edged sword undergoing close scrutiny in appeals, including ones that reach the Federal courts. As one departmental staffing official observed:

> Secondment: touchy subject. Secondments are super-useful devices that can cause enormous problems in terms of the merit principle. The very things that are their strengths are their weaknesses. The concept doesn't exist in law. As a result they aren't bound by any of the protections and constraints that legitimate staffing mechanisms are bound by. * * * The great strength is that since they don't really exist they aren't subject to the system; they are really quick and easy to do. There are no constraints. Their weakness is, because they are not subject to the system, there are no protections. You can second someone into a job for 2 years and then decide to fill it competitively. Who is likely to win? And nobody can say at this stage, "Well, I should have been offered this secondment."

Despite the potential for misuse, secondment really does offer a means of meeting very legitimate short-term staffing needs, such as when an employee leaves temporarily for maternity leave and must be replaced for a period of time such as 6 months. As was pointed out in one interview, "this [situation] is not a trial basis. There is no competition at the end. The person is coming back to me. I need a job done for 6 months. There is no current mechanism in the law for a short-term temporary transfer." Secondment is a solution for such a case.

Despite enough examples to make it clear that secondment serves as a valid means of meeting a short-term staffing need, we also saw that Canadian managers certainly know the tool's potential beyond short-term staffing. As one manager said, "[Secondment] is one of the best selection tools in the world if you want to look at the validity of selection tools. Six months' on-the-job training, that's hard to beat. Your most valid selection tool."

The closest thing the Civil Service has to "secondment" is "detail." Details (including details to unclassified positions in limited circumstances) are a useful way to meet the needs of rapidly changing organizations. OPM-imposed controls attempt to ensure that detailed individuals don't gain unfair advantage for subsequent competitive actions, but that advantage almost assuredly occurs anyhow. Generally, details may be made and extended in 120 calendar day increments to a maximum of 1 year (2 years if the organization is undergoing a study for

possible contracting-out of its work). Employees in the Civil Service aren't as likely as their Canadian counterparts to view a detail as something to be sought, so details are less frequently employee-initiated. And, unlike in Canada, U.S. agencies may effect a detail without the employee's agreement.

2. Conclusions

By virtue of how they are effected, both "acting appointments" and "assignments/secondments" permit individuals to gain specific job-related experience that may give them advantage in a subsequent competitive appointment action. Thus, without placing at risk the merit principle outcome (appointment of the best qualified applicant through competition), these processes represent a challenge to one of its cornerstones—affording equal opportunity to all candidates. These processes may tilt the playing field in favor of one candidate before the competition occurs.

While the appeal right is triggered in "acting" situations after 4 months, we were told of acting appointments that were for as long as 2 years. That is a long time to allow someone to gain experience noncompetitively (especially when the process may be employee-initiated). This observation is the basis for the following quotes, the first from a staffing officer and the second from a manager:

> Each of these [noncompetitive] processes is well structured and well run with respect to the rules that apply to it. However, taken as a pattern and looked at as "the big picture," they allow someone to gain an advantage through various processes that don't follow the same kinds of rules that the later competitive process does.
>
> When a person's been acting in a job for a year or more, then what you do when you have a competition is legitimize a decision the manager has already made—he or she has already decided who should get the appointment. You end up "playing the system."

Although U.S. controls on equivalent Civil Service processes don't guarantee protection of merit, they appear to go further than Canada's in trying to do so, while still affording managers substantial flexibility.

E. Downsizing Practices

A key aspect of merit staffing is how an organization handles staff reductions—downsizing of the workforce. There are significant differences in how the Canadian and U.S. Governments deal with their respective workforces when they must downsize. (In appendix H we provide a summary of the benefits each country gives to its employees during staff reductions.)

1. Downsizing in the Canadian Public Service

Canadian managers decide what criteria will be used to assess employees for retention during a downsizing, and make their decisions based on what the organization will need after the downsizing is completed. In the United States, managers decide which positions will be kept and which vacancies will be filled, but the retention criteria are predetermined by Civil Service law and regulations, and retention order is based on information developed before the need for the downsizing was determined. While this prevents "loading the dice" for or against an employee, it may also produce a retention order that isn't well geared to the needs of the post-reduction organization.

In contrast to Canada, where seniority (years of service) is not a retention factor, seniority is a major consideration in the United States, although additional years of service may be credited for good performance. Despite this extra credit for performance, the U.S. approach often leads to the separation of less senior employees whose long-term value to the organization may be greater than the more senior employees who are retained—a problem avoided by the Canadian approach.

"Workforce adjustment" is the process the Public Service of Canada uses to carry out staff reductions. The Treasury Board consults with the unions on workforce adjustment policies, and these policies are deemed to be part of the collective agreement. The TB has administratively extended these policies to all permanent employees, including those not subject to collective bargaining (e.g., the Management Category and employees excluded from bargaining units). Workforce adjustment policies are renewed on a 3-year cycle.

When faced with the need to reduce staff, Canada grants a 6-month surplus period before instituting the reduction. During this period affected individuals have the administrative priority rights to available positions which were discussed previously in the section labeled "Considering Priority Candidates." These rights extend throughout the Public Service, although the employing agency has first responsibility for placement.

The Public Service process for identifying the persons to be declared surplus, and ultimately to be laid off, can have major implications for subsequent internal Public Service talent pools. The process follows the "reverse order of merit," which means it closely resembles the reverse of the appointment process. In brief, the employees judged least able to perform well the duties of the office are declared surplus (and ultimately laid off) first. (However, because of the strenuous placement efforts undertaken during the surplus period and the application of various voluntary separation incentives (described in appendix E), a relatively small proportion of surplus employees are actually laid off.)

Thus, in periods of small staffing cuts, the talent of the pool of individuals with priority rights based on surplus or layoff may be thin. However, during periods of large scale staff reductions, the same pool may be talent-rich.

When a staff reduction is recognized as imminent, the Canadian manager identifies and applies assessment criteria to each staff member to determine the level to which the employees "possess the qualifications necessary to perform the remaining functions."[49]

It may not be practical to conduct this assessment in the same way as for appointment (i.e., it may be more of a "paper exercise"), but—

> the order of lay-off decision should not normally be based only on existing documents such as employee appraisals which assessed employees' past performance. * * * [It] may be appropriate to use * * * interviews, written examinations, etc., in combination with existing information about the employees involved.[50]

The result of this assessment is a list of the indeterminate ("permanent") employees in merit order. Employees may see the resulting list, and may challenge their placement on it through the PSC investigations process. Employees are identified as surplus, and ultimately separated, in reverse order of their standing. Those actually to be laid off must be given 30 days notice before that happens.
Roughly 27,000 Canadian public servants were affected by the workforce adjustment process in the 5-year period ending March 1991. Of this number, between 5,000 and 6,000 took "cash out," about 16,000 accepted other Public Service jobs, and the remainder (perhaps 5,000 to 6,000) have priority reemployment rights throughout the Public Service.

Additionally, an unknown but not inconsequential number of employees resigned to take jobs with contractors in situations where downsizing was a consequence of the contracting-out process. However, an early 1991 court decision has subsequently blocked this type of activity. The ruling, which concerns interpretation of the wording of a document

[49] "Staffing Policies and Guidelines," p. 32. Seniority is considered only as a tie-breaker, and veteran's status has no sway.
[50] Ibid.

which forms part of a collective agreement, has put a hold on contracting-out since it was announced. This issue is pending a hearing and decision before the Supreme Court of Canada.

2. Downsizing in the U.S. Civil Service

Many U.S. agencies voluntarily try to place surplus employees before issuing RIF notices, and must give employees notices at least 60 days before the effective date of the RIF. However, in Canada, the Public Service is required to implement a 6-month surplus placement period before beginning a downsizing.

Staff reductions in the Civil Service are handled through a process called reduction in force, or RIF. U.S. managers decide which positions shall remain in an organization following a RIF, but the process for determining which employees will fill those positions is largely outside their control.

Under RIF regulations published by OPM, the scope of competition for retention is determined by something called the "competitive area." Competitive area may be geographically or organizationally defined, and the largest competitive area possible would be a whole agency. Within the competitive area, competition is then determined by the following factors in the order shown:

(a) Competitive level, which is the grouping together of positions at the same grade with similar duties and other responsibilities;

(b) Tenure group, of which there are three for RIF purposes. In order of precedence, they are (1) career employees; (2) career-conditional em ployees; and (3) employees serving under various nonstatus, nontemporary authorities such as those governing indefinite appointment or Temporary Appointment Pending Establishment of a Register;

(c) Veterans status; and

(d) Length of service (modified by performance credit, which is expressed as additional years of service).[51]

Each employee is placed on a "retention register" in order of retention status. As in Canada, the retention register is public; the employees may inspect it. Affected U.S. employees may also inspect the records used to construct it, a right not necessarily granted to Canadian public servants. Also as in Canada, when a RIF is actually implemented, release is in reverse order of retention (from the bottom up).

"Release" may mean actual separation, but more often it means exercising "bumping" or "retreating" rights—something Canadian public servants don't have. Bumping and retreating are processes which permit employees facing RIF to displace other employees, at the same grade or up to three grades lower. The rules for these processes are complex, relying on competitive level, tenure, veterans preference, and seniority. Exercising bumping or retreating rights can set off a "chain reaction" effect in which persons with the least protection ultimately are separated. Because of bumping and retreating, the Civil Service RIF process often has a widespread rippling—and unsettling—effect on the affected workforce.

Agencies and OPM are responsible for reducing the negative effects of RIF's as much as possible. They do this largely by offering job placement assistance, including priority consideration, to individuals facing threatened job loss. The parent department or agency may impose restrictions such as requiring that vacant positions be filled with employees threatened with

[51] Currently the performance ratings for the most recent 3 years are averaged to determine the number of years of additional performance credit to be given. OPM has proposed revising the regulation so that the performance credit will be based on the three most recent ratings received during the 4 years preceding a specific RIF notice.

job loss so long as the individuals meet the qualification standards for the jobs. Separated employees are given priority reemployment rights.

As another way to lessen the impact of involuntary separations during RIF, OPM may authorize "early out" retirement for affected organizations. Under "early out" retirement authority, an individual may qualify for an annuity at any age with 25 years of service, or at age 50 with 20 years of service.[52] However, annuities are reduced by 2 percent per year for each year the employee is under age 55.

As this report was being written, OPM published final regulations increasing from 30 to 60 the number of days' notice agencies are required to give employees before implementing a reduction in force. The new regulations require a minimum 60-day notice period, although OPM may authorize "a notice period of less than 60 days, but at least 30 full days * * * when the reduction in force is caused by circumstances not reasonably foreseeable."[53]

Like their Canadian counterparts, many U.S. agencies also attempt to place surplus employees over a considerable period of time before issuing reduction-in-force notices. However, they do so voluntarily. In Canada these pre-layoff placement efforts are mandatory under the workforce adjustment policies.

3. Conclusions

Canada's approach to downsizing offers employees substantial protection against actual layoff; its direct costs are probably higher than comparable costs in the United States. However, because the Canadian process uses the centrally controlled process of priority consideration to place such a large share of surplus employees, it avoids the loss to the Public Service of valuable knowledge, skills and abilities.

Canada's system also avoids the disruption that is a consequence of the musical chairs effect of "bump" and "retreat" rights associated with the U.S. approach.

The Canadian approach to downsizing gives managers far more substantial and direct control over retention decisions than does the U.S. approach. Canadian managers' ability to gear retention requirements to the specific tasks that the organization will continue to perform, and the virtual absence of seniority as a factor, suggests that they are better able to keep the best qualified persons during a staff reduction. Canada also avoids a common problem associated with the effect of seniority on a reduction in force in the United States—disproportionately high losses of less senior (and often younger) employees. Canada's approach permits keeping such employees based on their perceived ability to contribute to the mission of the organization.

Canada's approach to downsizing offers employees better protections against being put out of work, but probably is more costly in terms of direct costs. However, those costs are at least partly offset by these strengths of the approach:

a. It avoids the disruption that is a consequence of the musical chairs effect of "bump" and "retreat" rights;

b. It permits each organization undergoing downsizing to order the retention of employees based on the employees' assessed ability to contribute to the mission of the organization after the downsizing is completed;

c. It makes use of a centrally controlled mechanism (priority consideration) that helps avoid the loss of training costs and the value of the skills and ability developed in each affected employee; and

[52] Normal retirement eligibility is reached at the following age/service combinations: 55/30; 60/20; or 62/5. There are exceptions for certain occupations--primarily air traffic controllers, firefighters, and those engaged in law enforcement activities. The newer Federal Employees' Retirement System also has minor variations to these norms.

[53] "Federal Register," vol. 56, No. 173, Friday, Sept. 6, 1991, p. 43996.

d. It fosters a sense of loyalty to the Public Service among all employees since they know they have a number of protections that may significantly reduce the impact of actual layoff.

We also perceive some weaknesses in the Canadian approach to downsizing. These include, in order of probable significance:

a. The potential for abuse that is inherent in managerial authority to determine the factors to be used to decide the "reverse order of merit" after a downsizing situation is announced;

b. The high direct cost of administering the many protections granted to employees; and

c. The requirement to implement a 6-month surplus period before actually beginning a downsizing demands a level of planning and forethought that may not always be reasonable in a period of rapid change.

What are the strengths and weaknesses of the U.S. Civil Service RIF process? One strength is its basing retention order on information that was developed before the need for the RIF was decided. This prevents "loading the dice" in favor of one employee or against another. However, this strength is also a weakness—the order for retention may not make sense when viewed in light of the needs of the remaining organization.

Another perceived strength is that the U.S. process rewards a combination of service and continuing good performance. By allowing performance to modify seniority, the U.S. approach gives less senior but more able employees the opportunity to gain retention rights over employees who have longer service but are less able. But it still allows longer term, capable employes to have preference over comparable shorter term ones. Finally, whether the U.S. policy of granting veterans retention rights over nonveterans is a strength or weakness is colored directly by one's view of how far the Government should go to support the public policy goal of giving veterans preference.

Clearly, the two countries differ significantly in how they reduce their workforces.

V. SAFEGUARDS FOR MERIT STAFFING

The two countries' merit system oversight programs are quite similar, with one major exception: U.S. Civil Service employees can't appeal nonselection for internal appointment (promotion) but Canadian Public Service employees can.

A. Audits

There are strong similarities in the merit system oversight programs administered by each of the two countries. In Canada the PSC's Audit Branch carries out this function relative to staffing and—through delegations agreements with the TBS—most other personnel programs. OPM carries out a similar audit function in the United States through its Agency Compliance and Evaluation office. In the United States, responsibility for the principal audit process, called personnel management evaluation, is shared by OPM and the agencies, with OPM providing overall program leadership as well as operating its own program. However, other parts of OPM also conduct audit reviews of specific personnel programs (e.g., the Career Entry Group audits agencies with delegations of examining authority).

In both cases these responsible central agencies: (1) conduct reviews and audits of personnel programs to help ensure that actions already taken are correct and supportable; (2) conduct reviews of personnel systems in departmental and subordinate personnel offices with the aim of improving or refining those offices' contributions to their parent organizations' mission accomplishment; and (3) provide feedback to Government policymakers identifying personnel policies or practices needing change. Although they receive program direction from their Washington headquarters, OPM field staff performing the audit function are integrally part of the regional offices. Formerly located in the regional offices, the PSC Audit Branch staff are now all housed in Ottawa. Consolidation of the branch was carried out to improve the program's coordination and control.

Both programs use a variety of automated tools, plus experienced personnel specialists, to identify and solve problems locally and nationally. Both have the authority to require corrective action where necessary, but both rely more on powers of persuasion and their problem-solving responsibilities than their "policing" powers. Each contributes to safeguarding merit in its own system.

B. Appeals

The U.S. Merit Systems Protection Board is an independent agency with statutory responsibility for protecting the Federal merit systems but no responsibility for their operations. In contrast, the Public Service Commission of Canada is responsible for managing Canada's appeals process to protect merit, but it also has operating responsibility for staffing the Public Service. Canada has taken steps to relieve the potential conflict between the two functions, and its appeals system, like the U.S. system, appears to serve its intended purpose.

An additional safeguard is the appeal process. In Canada, authority to resolve disputes between public servants and their employer is split between (1) the PSC and its appeal boards and (2) the departmental grievance process, which leads ultimately to resolution before the Public Service Staff Relations Board.[54]

[54] The departmental grievance process hears grievances of dismissals for cause and those concerning issues related to: terms or conditions of employment; the collective agreements; personnel policies; and certain issues that aren't subject to bargaining (such as the pension plan). Because our emphasis is on merit staffing, we will not examine this grievance role.

The PSC authority for appeals is defined in the Public Service Employment Act. The PSC hears appeals from employees who experience (1) demotion or (2) release from employment because of incompetence or incapacity. The PSC also hears appeals from unsuccessful candidates for promotion, which is viewed as an actual or proposed appointment. If the promotion was processed under closed competition, an unsuccessful applicant can appeal the selection or proposed selection of any other candidate. An appeal may be heard even if competition was not involved if the PSC agrees that the appealing individual's chances for advancement were harmed by the nature of the noncompetitive action.

In these latter cases, the PSC appeals staff views the timeliness of the appeal, the normal area of competition that would have been applied, and the other opportunities the individual had. There is also a mechanism for the PSC to hold an inquiry in situations where an individual is in a position and shouldn't be (e.g., inaccurate or false qualifications).

Appeals are heard by a board, which usually is comprised of one person. In cases where the PSC believes multiple views might be helpful in deciding the appeal, it will use two or more persons for the board. Board members usually are employees of the PSC Appeals and Investigations Branch.

When a board rules on an appeal, it can only uphold or deny the appeal—nothing else (e.g., no mitigation). No one in the PSC line of authority (not the Executive Director of the Appeals and Investigations Branch nor even the Commission Chairman or a member) may review or change an appeal board decision. Each decision is subject to review only by the Canadian Federal Court of Appeal, and ultimately by the Supreme Court of Canada if that highest court permits further appeal. Thus, the appeal function is largely insulated from operational pressures stemming from the PSC's staffing responsibilities. When an appeal is upheld, the effect is to suspend and reopen the selection process. This enables the PSC to decide what corrective measures are necessary to protect the merit principle. Selection appeals are a major workload factor for the PSC, as is evident from table 4.

It is apparent that Canadian public servants take their right to appeal nonselection seriously. During the covered 5-year period shown in table 4, there were a total of 40,574 appealable selection actions. Nearly 15 out of every 100 (14.8 percent) of these were actually appealed. And of the 5-year appeal total of 6,554, more than 1 in 10 (783, or 11.9 percent) were allowed. "Allowed" means the challenge by the appealing party was sustained, which usually means the action would have to be reprocessed. It does not necessarily mean that, after reprocessing, the original result would be changed. Nonetheless, such appeals may delay consummation of an appointment pending a decision and any required action, so they clearly aren't relished by managers.

In the United States, the Merit Systems Protection Board (MSPB) has an appeals role that roughly approximates that role as exercised in Canada by both the Public Service Commission and the Public Service Staff Relations Board. The most notable differences are that: (1) MSPB doesn't hear appeals concerning provisions of collective agreements; and (2) employees can't appeal nonselection for promotion.[55]

A difference that goes beyond roles to the heart of the two organizations' situations in their respective Governments is that MSPB is an independent Federal agency with statutory responsibility for protecting the U.S. Federal merit systems,[56] but no responsibility for their operations. The appeals process is one way it protects merit, conducting

[55] When a complaint relating to a promotion is allowed, it is resolved through appropriate grievance procedures, not under MSPB jurisdiction. However, grievance rules are like appeals rules in one key respect—civil servants may not grieve nonselection from a properly established promotion certificate.

[56] There are a number of U.S. Federal merit systems in addition to the Civil Service, including the Senior Executive Service, the Foreign Service, and the alternate personnel systems operated by the Tennessee Valley Authority and the Department of Veterans Affairs for certain medical professional and auxiliary personnel in VA medical centers.

Table 4. Appeals of Selection Processes in the Public Service of Canada, 1986-90[a]

	1986		1987		1988		1989		1990	
	No.	Pct.	No.	Pct.	No.	Pct.	No.	Pct.	No.	Pct.
Appealable selection processes	5,849		6,554		8,844		9,310		10,017	
Selection processes appealed[b]	794	13.6	971	14.8	1,401	15.8	1,259	13.5	1,596	15.9
Selection processes appealed and disposed of[b]	897		950		1,303		1,311		1,402	
Appeals allowed	114	12.8	124	13.1	170	13.0	188	14.3	187	13.3
Appeals dismissed	783	87.2	826	86.9	1,133	87.0	1,123	85.7	1,215	86.7

[a] Source: "PSC 1990 Annual Report," 1991, p. 56.
[b] The number of selection processes appealed and the number appealed and disposed of differ because some appeal cases are carried over from one year to the next.

systemic studies of the merit systems is another, and annually reviewing the significant actions of OPM is a third. In performing these roles, MSPB is divorced from the day-to-day pressures and considerations that are a normal consequence of operating program responsibilities.

The PSC is also an independent agency, but it has operating responsibility for staffing the Public Service in addition to managing the appeals process. Thus, it must self-police the staffing process. Outwardly this is the situation—ultimately deemed intolerable—that existed in the United States before the Civil Service Commission was abolished by the Civil Service Reform Act of 1978. However, as already noted, Canada has taken steps to relieve the potential conflict between PSC staffing program administration and subsequent appeals adjudication.

Despite this significant structural difference in how the two countries handle appeals, and the difference in the scope of the appeals they hear, each system appears to serve its intended purpose.

C. Investigations

The PSC also has established an investigations staff to help ensure the integrity of Canada's merit system. This staff is not required or authorized specifically by statute; rather, its existence is justified under the PSC's general authority, and its scope is quite broad. A situation not covered by the appeals provisions of law that is raised with the PSC by an individual can be handled by the investigations staff if the situation meets three conditions: (1) the individual has reasonable grounds; (2) the PSC has jurisdiction over the issue; and (3) effort has been made to resolve the situation before it was submitted to the PSC.

Examples of situations warranting investigation include: (1) complaints of personal harassment and (2) appointments involving open competition. Thus, applicants who are not already Federal employees are able to challenge selections for appointment.

Although usually initiated in the same manner as an appeal, the investigations process is less defined and constrained. The investigations staff uses mediation

without finding fault to solve about 40 percent of all cases. Mediation has positive consequences because it solves cases without harming any party, but also negative ones because it may cut off the fact-finding and analysis process before systemic problems can be identified. Thus, the PSC may sometimes lose an opportunity to identify a systemic problem (although if one were found during an investigation, the PSC could correct it).

In 1989 the PSC experienced a 22-percent increase in cases leading to investigations. Some individuals interviewed suggested that this increase is primarily attributable to two dynamics: (1) a shrinking Federal workforce and (2) persistent "bashing" of Canadian public servants by elected officials, the public, and the media. In this view, these two forces jointly have created an environment leading to decreased job opportunities, lowered morale, and salary problems. These, in turn, cause more employees to raise issues for possible investigation.

In the United States, it's more likely that individual complaints would be addressed through the Office of the Special Counsel (examining the situation as a prohibited personnel practice) or through agency grievance procedures. OPM's Agency Compliance and Evaluation staff may exercise an investigations role similar to that of Canada's PSC, but only if the challenge directly raises questions about the fairness of the process involved. In accepting such a role, OPM might ask the headquarters of the concerned organization to conduct and report on the initial investigation, and then decide what action to take.

D. Personnel Staff Certification

In the 1970's Canada's Treasury Board Secretariat and the Public Service Commission embarked on a certification venture that had the potential to strengthen the personnel system, and thus the system's merit basis. This was a process through which personnel specialists would be certified as competent in their specialty fields. Without such certification, which would be awarded on the basis of training courses, practical experience, or both, the authority to approve a particular kind of personnel action (e.g., classification or staffing) would be withheld. The practice began with the position classification specialty, and was expanded to cover others, including staffing and staff relations.

In concept, this practice should have produced a form of protection for a merit-based personnel system, since it should have ensured a base level of competence. In reality, TBS officials reported that it too often produced technicians whose focus was "the system" (in the narrowest sense) rather than personnel specialists who were concerned with supporting managers. The practice has just about been discontinued; only position classification specialists are still regularly certified. Departments have the option of using the certification process for other personnel specialty fields.

In lieu of this practice, the TBS, with assistance from Personnel Directors, has developed a series of competencies for three defined levels of personnel specialist. This is a practice to improve the quality of personnel specialists, and is tied to recognition of needs such as those identified by Canada's Public Service 2000 initiative (discussed briefly in appendix A).

The TBS is also working on a recruiting brochure aimed at providing information about the personnel management/administration field. The intent is to include the brochure in the recruiting packet the PSC uses during on-campus university recruiting. This plan reflects the TBS desire to increase external intake; current intake ratio in the personnel management/administration field is six people from within the clerical or other support ranks to each one new university graduate. The TBS also wants the PSC to focus recruiting at universities offering degrees in human resource management. Taken together, these steps may also strengthen merit protection in Canada.

The United States currently has no similar program aimed specifically at strengthening the quality of personnel specialists, although OPM does offer numerous training courses in the various personnel fields and is working to improve recruitment of high-quality college graduates across the board.

VI. RELATIONSHIP BETWEEN MERIT STAFFING; SUITABILITY (OR RELIABILITY) AND SECURITY; AND ETHICS

A Canadian Public Service employee or applicant must meet all security clearance qualifications (including successful completion of any required investigations) before being appointed to a job. While the United States normally requires the same pre-employment clearances before appointment, discretion is granted agencies to place individuals under some circumstances before the security investigation is complete, subject to satisfactory investigation results after hiring.

Canada has been particularly successful in applying risk management techniques to reduce the number of positions requiring security clearances, the frequency of recertification checks, and the time required to conduct checks or investigations.

Public service employees in democracies must have and hold the trust of those they serve. Consequently, in many cases their activities and behavior—before, during, and after employment—are subject to scrutiny and control not common to most workers in other environments. This chapter discusses how the two countries deal with issues of suitability or reliability, security, and ethics in the context of merit staffing.

A. Suitability (or Reliability) and Security

1. Suitability (Reliability) Checks

At a minimum, the Canadian Government require basic "reliability checks" on new hires before appointment. These are basic employer protections including reference checks and a check for a criminal record. About one-fifth of all Canadian positions require only this level of check. In the United States, employing personnel offices routinely conduct similar pre-employment checks after making a tentative selection. Applicants who pass this first screen are subjected to a further suitability check—investigation or inquiry—conducted by OPM (or in some cases another agency). This second screen must be initiated within 14 days of appointment, with continued employment contingent on satisfactory results. (In cases involving certain levels of security clearance, this second screen is required before appointment.)

Beyond the minimum, Canada recognizes that many employees, by their action or inaction, can affect the integrity, efficiency, or effectiveness of assigned Government activities. While such employees' duties are not necessarily linked to national defense, national security, or other conditions requiring a security clearance, an additional check on their past is required. This group, representing about half of all Canadian positions, is subjected to an "enhanced reliability" check.

The United States also has similar positions, called "Public Trust Positions." The kind of suitability investigation or inquiry conducted for individuals appointed to these positions is determined by evaluating the position under a risk designation system which considers many aspects of the job. If evaluated at the lowest of three risk levels, these positions are subject to checks that involve security and law enforcement agencies, references, previous employers, and educational institutions. If evaluated at a higher level of risk, they are subject to more stringent investigative requirements.

2. Security Considerations

About 30 percent of Canadian Federal employees perform duties that require security clearances because of the nature of their work. This may be because the job requires access to classified information or for other reasons relating to national security

without access to classified information. The decision to require a security clearance (and the level of that clearance) is solely a management prerogative in Canada, as is also true in the United States.

Canada has three broad levels of position sensitivity relating to security classification. (These are in addition to the reliability check positions previously discussed.) They require successively expanded investigations since they relate to security clearances for information classified "confidential," "secret," and "top secret" or higher.

The United States also has three levels of position sensitivity, with the levels often related to access to classified information, although—as in Canada—they also may relate to national security duties not requiring access to classified information. Also as in Canada, as a position's sensitivity increases, so does the extent of the security investigation required. And, as noted in the previous section, Public Trust Positions evaluated above the lowest suitability risk level also require expanded investigations. In this respect, the U.S. personnel suitability and personnel security systems are more complex than Canada's.

The U.S. norm is to require completion of the necessary security clearance investigation before appointing an individual. However, agency heads (or persons designated by them for this purpose) are permitted to waive this requirement under "emergency" circumstances. When this provision is invoked, the individual may be appointed pending completion of the clearance process. The term "emergency" is not defined; depending on the needs of the agency and the national interest, use of this waiver option permits U.S. managers to make essential appointments while waiting for the security clearance process to be completed. The reasons for exercising this waiver must be documented, and are subject to periodic review by OPM. Normally, the individual wouldn't be granted access to classified information until the clearance process is completed.

Before 1985, despite a policy that required granting of a security clearance (when required) before making a permanent appointment, some Canadian departmental managers followed the practice of "hire first, then clear." That practice was challenged during a selection appeal[57] heard by a Public Service Commission appeal board in 1985. The appeal board determined that the security clearance was, under the terms of the Public Service Employment Act, a qualification for the job. Under this reasoning, no person who lacked the requisite clearance could be found eligible for appointment (including promotion). The Government subsequently challenged this determination in court and lost.

The consequences of this decision are clear. Absent a waiver provision similar to that of the U.S. Civil Service, the security clearance is a qualification that Canadian Federal employees[58] must meet before appointment. With its waiver provision, the U.S. system permits managers somewhat more flexibility than is found in Canada.

The Canadian Government has acted to minimize this decision's potential and real effects on its ability to hire or promote individuals. The Government's actions have also been based on other considerations: high costs; large security investigation case backlogs; and lengthy delays in checks and investigations. Applying risk management techniques, they have acted to reduce: (1) the number of positions requiring security clearances; (2) the frequency of checks on (recertification of) those already holding security clearances (effectively increasing the length of time between such checks); and (3) the time required to conduct the checks or investigations for each reliability or security level. Additional risk management assessments were underway when factfinding for this study was being conducted, looking for further time and resource savings and technology gains.

[57] Appeal of Mr. Louis Asselin, March 19, 1985.

[58] For purposes of this requirement, this includes employees of contractor companies working for Federal agencies.

The U.S. Department of Defense, including the military departments, has also taken steps in recent times to reduce the number of positions requiring security clearances. Although they have considerably reduced the number of positions requiring clearances, that number is still substantial.

Like Canada, the United States has also taken some risk management steps in this area. Recent revisions in the "Public Trust Position" concept have eliminated automatic "Sensitive" labels for these positions, so they do not all require security investigations that previously were required. And OPM is granting agencies discretion to determine reinvestigation cycles for (a) some positions at the moderate risk level and (b) all positions at the lowest sensitivity level. (Higher level positions will require a 5-year cycle.)

The United States might benefit from a review of all of the changes Canada introduced after making its risk management assessments. Some of the time and dollar reductions Canada has realized might be replicated in the United States.

B. Ethics

The Governments of both the United States and Canada are reasonably concerned with the issue of ethical behavior in their respective workforces. Besides establishing guidelines and restrictions on behavior during an individual's period of Federal employment, both countries also place controls on post-employment activities. In each country the goals are to ensure the integrity and probity of its employees. Both countries emphasize behavior and results (which often translate respectively into appearance and reality).

In Canada, the Treasury Board established policies concerning "Conflict of Interest and Post-Employment Code for the Public Service" in 1986 under authority granted the Board by the Financial Administration Act. Compliance with this code is a condition of employment. While the code references various laws, its force is as regulation rather than law; in contrast, U.S. conflict of interest restrictions and post-employment activity limitations are established by law and regulation. In the United States each agency administers its ethics program consistent with regulations published by the Office of Government Ethics. Similarly, in Canada each department has been delegated authority to administer policies on ethics issues published by the Treasury Board Secretariat.

The U.S. and Canadian restrictions are similar in many ways. However, there are also some differences between how the two countries deal with the broad issue of ethics. For example, in the United States, one of the statutory merit system principles addresses "whistleblowing." Within defined limits such activity is protected, and retaliation against any employee who lawfully "blows the whistle" is illegal. Canada has no such law, so there are no specific Canadian protections for whistleblowers. However, Canadian whistleblowers may find protections through application of at least five laws and one Treasury Board policy.[59]

Although protection of whistleblowers appears to be a strength of the U.S. system, the U.S. track record in dealing with—and protecting—whistleblowers has been sufficiently criticized to raise doubts about whistleblower protections. Congressional dissatisfaction with the effectiveness of these protections led in 1989 to passage of the Whistleblower Protection Act, intended to strengthen protections available to whistleblowers. It is too early to determine whether this law has achieved its goal.

[59] These are the: (1) Public Service Staff Relations Act; (2) Public Service Employment Act; (3) Inquiries Act; (4) Canadian Human Rights Act; and (5) Privacy Act; plus the Treasury Board policy concerning personal harassment.

VII. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

Both the United States and Canada may take satisfaction in the operations of their Federal civil service systems. Each country's system has a favorable world-wide reputation for its merit basis, and each appears to have found a balance point between protections for the employee and control by the employer.

Despite being quite similar in goal and achievement, there are fundamental differences in how the two systems work. We see three strong contributing causes for those differences: (1) the differences in the size of the two workforces; (2) differing national views of the role of labor-management relations in the workplace; and (3) differing national views on Federal employee entitlements. Still, each system appears to work well for its respective country.

Change isn't easy in a bureaucracy (especially a large one). Nonetheless, both the U.S. Civil Service and the Public Service of Canada confront a need for change. Their responses, the U.S. Civil Service Reform Act and Canada's Public Service 2000 initiative, share a common goal: responsive and competent workforces which provide timely and efficient services to their respective countries' populations.

As both the United States and Canada have recognized, the key to improving service to the public rests with the people providing that service. And a key to unlocking the collective potential of those people is the personnel management system that leads to employee selection, advancement, compensation, movement within the workforce, and—when necessary—separation.

The Civil Service Reform Act envisioned placing more control over personnel management closer to the point where work is performed. Since the act was passed in 1978, OPM has delegated substantial personnel management authority to departments and agencies. For these efforts it has been doubly criticized: for not delegating enough and for delegating too much.

OPM also has been criticized for not ensuring adequate oversight of much of the authority it has delegated. And yet, most managers and informed observers are pressing for further delegation, or decentralization, of personnel management authority under the argument that centralized control often just isn't responsive enough in a system as large as the Civil Service, particularly in times of flux.

While each of the two countries can learn from the other's system, our study focuses on what the United States might learn from Canada. So, what in Canada's approach to managing the Public Service might be transferrable to the U.S. Civil Service?

Perhaps there's room to give U.S. managers greater authority over employee selection. Empowerment along the lines of the Canadian model might result in better selections, with the expected long-term outcome being a rise in the overall quality of the workforce. Substantial effort would be necessary to carry out such a change, however.

Since U.S. agencies already exercise a high degree of autonomy in recruiting, it's unlikely that emulating the centralized approach followed in Canada would be well received by U.S. managers. However, one facet of Canada's approach appears to offer potential benefit to the U.S. college recruiting program: the effective cooperation between the departments and the Public Service Commission regarding the departments' recruiting needs. The information that the PSC obtains from the departments is valuable to the Public Service recruiting effort, contributing to focusing the PSC's information and recruiting roles.

In the United States, it appears that OPM and the agencies could each complement the efforts of the other through improved information exchange. OPM has the potential to contribute more to the Government's college recruiting effort by providing more and better information about agencies' needs. Most agencies' programs would probably benefit from better groundwork being laid when OPM visits campuses. What appears necessary to achieve this potential is better communication and closer cooperation between the agencies and OPM.

Although it would undoubtedly prompt major controversy, there is much to be said also for emulating Canada and strengthening managerial control over reduction-in-force situations. In relating employees' retention standing during staff reductions to their perceived ability to perform the mission of the organization as it is foreseen to be after the reduction is completed. Canada's process promotes a degree of efficiency not necessarily found in the current Civil Service approach. At the same time, recognition must be given to the fact that Canada grants far greater protections (unquestionably at substantial cost) to employees faced with separation. While essential to any change in U.S. policy, finding the balance in the tradeoffs between management control and employee protection during staff reductions would not be easy.

Canada's approach to personnel security—driven initially by a specific issue concerning appointments—is worth examining by the U.S. security community. True, the U.S. Civil Service has one flexibility not available in Canada: a mechanism which permits some individuals selected for jobs requiring security clearances to be appointed before the security clearance process is completed. But the cost of the security process—in dollars and lost productivity while most individuals wait for their clearances—argues for improvements in the United States wherever possible. If further application of risk management techniques and a harder look at the actual needs for security clearances can save additional money and human resources without compromising security, so much the better. If not, little would appear to be lost in the examination.

Despite the advantages and disadvantages discussed throughout this report, we conclude that each country's merit staffing system works in its own context. And even the least estimable features of the U.S. Civil Service and the Public Service of Canada still serve those systems' merit bases.

B. Recommendations

The Office of Personnel Management should:

☞ Examine the way the Public Service Commission of Canada gains economies of scale as a result of centralized recruiting, with primary focus on how the PSC gets and uses agency information to help in its campus recruiting efforts, and

☞ Explore ways to provide agencies a similar advantage through refinements in the Federal Government's college recruiting program. We envision an OPM-led recruiting program built upon the agencies' missions and program requirements. Agencies would be the driving force for this cooperative program. OPM, working in partnership with the agencies, would incorporate agency information into an occupation-oriented information approach for the public. The concept would produce a revitalized on-campus information program to pave the way for the agency recruiters, and would better serve the public's need for information in their initial job searches.

☞ Explore the possibility of fundamentally changing its role (or the role of agencies with delegated examining authority) in referring candidates for appointment (new hires).

We suggest here the possibility of changing OPM's role (and the role of agencies with delegated examining authority) to one more like the "occupational screening," role of Canada's Public Service Commission, and granting selecting officials greater authority to assess potential employees face to face for a specific job, using job-related tasks or other valid measures. The "rule of three" could be kept under this concept, with the determination of the top three candidates being transferred from OPM to the selecting official.

☞ Explore modifications to the current reduction-in-force procedures to grant managers some flexibility to determine the retention of employees based on their perceived ability to meet the needs of the organization as projected after the reduction in force is completed. This exploration should include consideration of modifications to employee protections since, as the current Canadian and U.S. approaches show, there are many possible tradeoffs between managerial controls and employee protections.

☞ Explore, together with the rest of the security community, ways to replicate and capitalize on Canada's experience in revising its security program. This should include consideration of ways to:

* Further reduce the number of positions requiring each level of security clearance;

* Reduce the effort and time required to process each level of security investigation; and

* Take advantage of improved risk management techniques to increase interval between investigations for individuals requiring periodic updates.

☞ Explore changing its regulations so that, in the absence of qualified citizens, persons without U.S. citizenship may compete for, and be hired into, the competitive Civil Service.

Agency heads should:

☞ Adopt and implement some variant of the process used by some Canadian departments to provide feedback to unsuccessful merit promotion applicants, at least as to why they were or were not included in the "best qualified" group. We see this as a means of helping improve employee understanding of the merit promotion process and strengthening personnel management since:

* Encouraging merit promotion panels to articulate in detail to unsuccessful candidates why they were not placed in the "best qualified" pool should lead to thoughtful, defensible decisions; and

* Understanding the reasons for not being "best qualified" may encourage the unsuccessful merit promotion candidates to work on improving their chances in the future, possibly strengthening the work force as a whole.

Appendix A. A Brief Summary of Personnel Management Initiatives Underway in the U.S. Civil Service and the Public Service of Canada

A. In the United States:

Spurred by changes mandated by the Civil Service Reform Act of 1978, by a court-approved consent decree affecting entry-level hiring, and by myriad social and economic pressures, the United States has set a course to improve its Civil Service. Some stated goals include: increasing productivity; improving the quality of work products; reducing impediments to managers' ability to manage; and making Government employment more attractive—all to be accomplished without causing loss of confidence in the fairness of the system that attracts and retains its employees.

In the nearly 13 years since the Civil Service Reform Act was passed, a number of Civil Service merit staffing changes have been implemented. While not inclusive, the following show the range of concerns the Government has addressed:

- Increased delegation of examining and appointing authority to departments and independent agencies, and the introduction of decentralized examining in some instances;
- New performance management systems which are central to all other personnel management decisions, such as promotion, assignment, and training;
- Revisions in reduction-in-force regulations to increase the relative importance of performance (and reduce the relative importance of tenure) as a retention factor and to reduce employee rights to other jobs during staff reductions;
- Expanded agency authority to use temporary appointments, permitting use of these appointments to meet a wider range of employment needs and for longer periods of time; and
- Recent passage of a law that will result in Federal white-collar pay being more attuned to locality differences, and hence, more competitive within various geographic areas of the country.

However, solutions to other perceived problems are still being sought. Chief among those issues are how to:

1. Provide further management flexibility and greater management authority within the context of a unified Civil Service and without damaging the protections that ensure fairness and meritorious decisions;
2. Assess the quality of the Federal workforce, and then to determine whether the Government has met its objective of having a highly qualified workforce; and
3. Identify and provide training that will place, or keep, the Federal Government at the forefront in applying technology and developing and maintaining skills to meet the requirements of a changing workplace.

B. In Canada

In December 1989, Canada launched a major revision of its Public Service. Called "Public Service 2000," this initiative is aimed at renewing the Public Service to meet the challenges expected in the 21st century. Canada's Prime Minister has articulated the following expectations:

> Canadians expect their Public Service to be effective and up-to-date, providing them with the highest quality of service and staffed and led by Canada's ablest men and women. My colleagues and I share the expectations of our fellow citizens * * *. Public Service 2000 is the Government's initiative to ensure that these expectations are satisfied.[60]

Achieving these expectations will require changing the way the Public Service does business. While human resource management is only one area expected to change as a result of Public Service 2000, the success of changes in that area may be critical to the initiative's overall success.

Proposed statutory changes bearing on merit staffing will, if approved, make it easier for employees to move among jobs at the same level, and offer added protections for employees who are dissatisfied with the reasons for a redeployment. Other statutory changes proposed will make it easier to understand the system for releasing poor performers; require term employees to meet the same standards as regular employees; give lay off status to individuals whose jobs are lost due to contracting out; and make it easier for departments to hire casual workers, but preclude casual workers from entering closed competitions.

Other proposed or already begun changes affecting merit staffing would:

- Allow Deputy Ministers to subdelegate staffing delegation without PSC approval;
- Allow Deputy Ministers to authorize acting appointments of longer than 12 months;
- Allow departments to tailor area of competition policies in accordance with their own operational requirements;
- Increase the length of time for temporary workers engaged by contract from the present 8 weeks to 20 weeks;
- Use computer technology to improve the staffing process;
- Reduce the number of levels in the Management Category to make distinctions among them more meaningful;
- Simplify job descriptions; and
- Increase Deputy Minister's classification authority to cover all levels below the rank of Assistant Deputy Minister.

[60] The Government of Canada, "Public Service 2000: The Renewal of the Public Service of Canada," 1990, Introductory letter.

Appendix B. Methodology

Information concerning the Canadian Public Service was primarily collected during two visits to Canada. During a 3-week visit to Ottawa in February and March 1991, the author conducted over 40 interviews with officials of two key central personnel agencies: the Public Service Commission (PSC) and the Treasury Board Secretariat (TBS). Concurrently, we obtained copies of PSC and TBS regulations, policy guidance, and similar materials for later review. This phase provided information concerning the theoretical basis for operation of the Public Service.

During a 2-week return visit in May 1991, the author gained additional insights into the operation of the Public Service through interviews with 39 line managers and operating personnel officials. An attempt to schedule interviews with union representatives was unsuccessful. Although the interview sample was not drawn scientifically, these interviews gave balance to the perspective provided by the PSC and TBS. They also provided anecdotal information to "flesh out" the framework provided by the PSC and TBS. During this second visit, the author also conducted followup interviews with a number of PSC and TBS officials.

In addition, information about the Public Service of Canada was obtained from or verified by a staffing specialist employed by the U.S. Department of the Air Force. This employee was consulted because, when fact finding for this study began, she had just completed a 1-year interchange assignment with Canada's Department of National Defence.

Information concerning the U.S. Civil Service was obtained, as needed, from officials of the U.S. Office of Personnel Management (OPM).

Draft copies of this report were reviewed by key staff of the PSC, the TBS, and OPM to ensure factual accuracy. Comments and suggestions from those reviewers were incorporated in this final version. Comments from an official of the Public Service Commission of Canada are contained in Appendix C.

Appendix C. Letter from the Public Service Commission of Canada Commenting on the Final Draft of this Report

Public Service Commission of Canada
Commission de la fonction publique du Canada

Staffing Programs
Programmes de dotation

Ottawa, Ontario
K1A OM7

SEP - 9 1991

Ms. Evangeline W. Swift
Director, Policy and Evaluation
U.S. Merit Systems Protection Board
1120 Vermont Avenue, NW
Washington, D.C.
USA 20419

Dear Ms. Swift:

I have received the second draft of the study, "To Meet the Needs of the Nations: Staffing the U.S. Civil Service and the Public Service of Canada" and look forward to sharing its contents with those individuals of my staff who met with its author, Harry Redd III, during his visits to Ottawa.

May I say that we have all benefited from participating in the research Mr. Redd was conducting as groundwork for his study. I know that after meeting Mr. Redd and reading the first draft of his work, the general consensus of the staff of Program Development (Staffing) at the Public Service Commission is that this has been time well spent.

May I say, and I know I speak on behalf of all the officers with whom he met in Program Development (Staffing) at the Public Service Commission, that we are impressed by the fact that Mr. Redd has grasped, in a relatively short period of time, the complexities of our staffing system.

As noted in the introduction to the study, PS2000, the renewal of the federal Public Service is well underway with new legislation tabled in the House of Commons changing our current *Public Service Employment Act* and we anticipate the opportunity to share with your organization the improvements to our system.

Canada

2

Thank you again for this second draft of the study. I am sure it will be an important and useful addition to our reference material.

Yours sincerely,

L.W. Slivinski, Ph.D.
Director General
Program Development (Staffing)

Appendix D. A Note Concerning Different Meanings Given to Identical Terms in the United States and Canada

A cautionary note about our report's use of "terms of art" is in order. Both countries use English (Canada is officially bilingual, with French as the other official language); despite some differences in spelling and pronunciation, their English vocabularies are indistinguishable. However, the meanings the two countries have attached to a particular word or group of words—especially jargon associated with a particular field of work—may differ. We try to avoid using jargon in this report, but sometimes can't avoid it. Where it's used, we provide a definition so that readers on both sides of the border will perceive the term in the same way.

We offer here two examples of the use of jargon in this report. First, both countries have executive departments and independent agencies in their Governments. Canadian Government officials differentiate between them in their speech (they would never refer to a department as an agency). However, through convention, many U.S. officials daily use the term "agency" more broadly to include both departments and independent agencies. Unless specified otherwise, the term "agency" in this report includes both departments and independent agencies.

Our second example is the word "college," which has acquired different meanings in the two countries. In the United States, this can mean a 2- or 4-year (or even higher) degree granting institution, but in Canada this term usually identifies post-secondary institutions that provide technical training. Schools granting bachelors or higher degrees in Canada are referred to as universities—a term usually treated as synonymous with "college" in the United States. As used in this report, the term "college" has the broader U.S. meaning.

Appendix E. Defining and Guarding "Merit" in Staffing in Each Country

This appendix summarizes how each country has defined "merit" and the operating systems and procedures each has put into place to support its definition.

A. In Canada

The Public Service Employment Act is the basis for Canada's Public Service merit staffing system. Together with implementing regulations and guides published by the Public Service Commission, it defines and governs merit staffing. Regulations governing other aspects of personnel management are issued by the Treasury Board. Here are some salient points concerning staffing in the Public Service:

1. Through judicial interpretation, merit has been defined as "appointment of the best qualified person."

2. The term "appointment" applies to competitive and noncompetitive staffing actions affecting both individuals already employed in the Public Service (most often what would be considered merit promotion situations in the United States) and individuals seeking such employment.

3. The Public Service Commission has exclusive authority over appointments. By a seeming preference in the law, the primary appointment source is current Public Service employees; outside sources are tapped only when the Commission agrees that limiting competition to current employees is not in the best interests of the Public Service.

4. Managers (selecting officials) are responsible for determining the qualifications required for each position under their control; by delegation from the PSC they determine the means for measuring each candidate's possession of those qualifications. This is true both for new hires and internal staffing actions. The assessment process normally involves job-related examination and face-to-face interaction with all candidates. As a general rule, managers are actively involved in every step of the assessment of candidates for appointment.

5. Successful candidates for appointment are ranked, and the highest ranked candidates are placed on an "eligibility list" in rank order. For competitions limited to current employees (called closed competitions), selection must be in rank order. Essentially then, Canada can be said to operate under a "rule of one" with regard to making appointments. For competitions that consider both current Public Service employees and persons seeking such employment (called open competitions), selection is also by rank order, but the rank order is modified by giving preference to two different veteran categories and then to Canadian citizens. From this latter we see that Canada employs non-Canadians.

6. In closed competitions, all unsuccessful candidates may appeal the outcome of the competition.[61] Such appeal rights are also extended to individuals who can show that their chances for advancement were harmed by a noncompetitive selection from within. The appeal right for these is established by law.

[61] An exception to this rule applies for advancements within, as opposed to, the Management Category.

7. Each employee appeal is heard by an appeal board established by the Commission. If the appeal is upheld, the board's decision is submitted to the Commission which: (a) is bound by the decision; (b) either confirms or revokes the appealed appointment (or in cases where the appeal preceded actual appointment, makes or does not make the proposed appointment); and (c) considers possible corrective action when appropriate.

8. Unsuccessful candidates in "open competitions" cannot appeal the outcome, but the PSC has administratively granted them a somewhat similar dispute process called an investigation. This investigation process does not have the same authority as an appeal.

9. Through a mechanism called an "exclusion order," the Public Service Commission can authorize or permit staffing conditions where some or all sections of the Public Service Employment Act, specified by the order itself, do not apply to any position (or group of positions) or any person (or group of persons). The sections of the act which are excluded may vary.

B. In the United States

The legal basis for merit staffing in the U.S. Civil Service is derived from various parts of "Title 5 of the United States Code" (subtitled "Government Organizations and Employees"), and from Civil Service Rules prescribed by the President. Portions of title 5, plus implementing regulations and guidance published by the Office of Personnel Management, define and govern merit staffing. Here are some key provisions governing the Civil Service:

1. The Office of Personnel Management is the central personnel agency for the Civil Service. Agency personnel actions must conform to OPM requirements.

2. The definition of merit in staffing is included in the first of nine statutory merit system principles listed in title 5. By this definition, "* * * selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity."[62] This is not quite the same as Canada's "appointment of the best qualified person."

3. The United States has different rules for external and internal staffing, although both sets of rules aim at fulfilling this merit principle. The rules governing external staffing (new hiring) are more prescriptive.

4. When filling positions, U.S. managers are generally free to decide whether to use external (new hiring) or internal (merit promotion) sources, or to consider both sources concurrently.

5. OPM is the examining and referring agency for external candidates for numerous occupations, and officially has this authority for all occupations. However, OPM has delegated examining authority to many agencies for at least some occupations, and has granted direct hire authority to other agencies for certain occupations.

[62] 5 U.S.C. 2302(b)(1).

6. Under the external staffing process, qualified applicants are identified in rank order on a list of eligibles, called a "register." As in Canada, provision is made to modify the rank order to give preference to certain groups eligible for veterans preference. Only U.S. citizens may be listed on a register.

7. The United States has a statutory "rule of three" for new-hire selections. Under this requirement, the selecting official must choose from among the top three candidates available on a certificate identifying candidates eligible for appointment.

8. For internal competitive selections (merit promotion), the rule of three doesn't apply. Instead, agencies must develop merit promotion plans. Each plan must meet OPM's broadly established requirements, including defining how employees being considered for promotion are rated and ranked. U.S. managers usually are removed from the initial assessment process—which often is a based on written information rather than face-to-face interaction—that identifies the best applicants, who are placed on a "promotion certificate." Once the manager receives this certificate, he or she is free to choose any person named on it with or without further assessment.

9. Unsuccessful merit promotion applicants are specifically barred from challenging their nonselection from a properly constituted promotion certificate. However, individual challenges may be made through the grievance process, usually on the basis that the process was flawed.

Appendix F. A Description of the Key Personnel Management Agencies in the U.S. Civil Service

The Office of Personnel Management (OPM) is the central personnel agency of the Civil Service. Headquartered in Washington, DC, OPM has 5 regional and 37 area offices located throughout the United States. It administers a merit-based system for Federal employment that includes recruiting, examining, training, and promoting people on the basis of their knowledge and skills, regardless of their race, religion, sex, political affiliation, or other nonmerit factors. OPM's role is to ensure that the Federal Government provides an array of personnel services to applicants and employees. Through a range of programs designed to develop and encourage the effectiveness of the Government employee, OPM supports Government program managers in their personnel management responsibilities and provides benefits to employees and to retired employees and their survivors.

The Merit Systems Protection Board (MSPB) protects the integrity of Federal merit systems and the rights of Federal employees working in the systems. In overseeing the personnel practices of the Federal Government, the Board conducts special studies of the merit systems and oversight studies of OPM, hears and decides charges of wrongdoing and employee appeals of adverse agency actions, and orders corrective and disciplinary actions against an executive agency or employee when appropriate.

The Office of the Special Counsel (OSC) is an independent investigative and prosecutorial agency that litigates before MSPB. It is responsible for investigating allegations of prohibited personnel practices, prohibited political activities by Federal and certain State and local government employees, arbitrary or capricious withholding of information in violation of the Freedom of Information Act, prohibited discrimination, and other activities prohibited by any civil service law, rule, or regulation.

The Equal Employment Opportunity Commission (EEOC), with regard to the Federal Government as an employer, has oversight responsibility for all compliance and enforcement activities relating to equal employment opportunity among Federal employees and applicants, including discrimination against individuals with disabilities.

The Federal Labor Relations Authority (FLRA) oversees the Federal service labor-management relations program. It administers the law that protects the right of employees of the Federal Government to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions affecting them. The Authority also ensures compliance with the statutory rights and obligations of Federal employees and the labor organizations that represent them in their dealings with Federal agencies.

The Office of Management and Budget (OMB) evaluates, formulates, and coordinates management procedures and program objectives within and among Federal departments and agencies. It also controls the administration of the Federal budget, while routinely providing the President with recommendations regarding budget proposals and relevant legislative enactments.

Source: "The United States Government Manual, 1989/90."

Appendix G. A Description of the Key Personnel Management Agencies in the Canadian Public Service

The Public Service Commission (PSC) is a politically independent agency accountable to Parliament for the administration of the Public Service Employment Act.[63] Reporting to Parliament through the Secretary of State of Canada (a Minister), the PSC has a tripartite head (a Chairperson and two Commissioners). In addition to its headquarters in Ottawa, it has seven regional and eight district offices located throughout Canada. The PSC ensures that "the best qualified persons are recruited to or promoted within the public service, that qualified employees are deployed to meet operational requirements, and that certain training services are provided on behalf of the Treasury Board."[64] It has the exclusive authority to make appointments in all Federal departments and agencies except for a few that have separate staffing authority under legislation. It may delegate its staffing authority to departments and agencies.

Reconstituted the Public Service Commission in 1967, it dates from 1908, when the Civil Service Act created its predecessor agency, the Civil Service Commission. A reaction to patronage excesses, the act gave the Civil Service Commission authority for the entire personnel function, "not simply those elements necessary for safeguarding the merit principle."[65] As noted above, the role of the PSC today is less encompassing.

During the Depression-era 1930's, financial pressures caused by civil servants' salaries led Canada's Prime Minister to strengthen the personnel management role of the Treasury Board by convincing the Civil Service Commission to delegate to the Board de facto control of pay, classification, and other factors that bore directly on the costs of government.[66] This division of authority—originally an expedient to address the fiscal concerns caused by the Depression—ultimately became permanent after jockeying that lasted almost a decade. In the end, the Treasury Board retained its personnel management authority for two reasons: (1) its de facto control of the purse; and (2) the perceived need for a single agent to represent the Government of Canada as employer in collective bargaining, coupled with recognition that an agent of Parliament, such as the Civil Service Commission or its successor (the Public Service Commission), couldn't fulfill this role.

The Treasury Board has power over Government finance, expenditure, and management standards. Originally under the Minister of Finance, since 1967 it has been headed by its own Minister, who has the title of President of the Treasury Board.[67]

The Treasury Board itself is a committee consisting of its own minister, the Minister of Finance, and four other ministers who change from time to time. It has two administrative arms: the Treasury Board Secretariat (TBS) and the Office of the Comptroller General. The Secretariat—the arm of the Treasury Board of particular interest to this report—is headed by the Secretary of the Treasury Board.[68] Among the Secretariat's responsibilities is that of official employer of all Canadian Federal public servants.

---

[63] Canada Communications Group and the Canadian Chamber of Commerce, "Organization of the Government of Canada, 1990," 1990, p. 323.
[64] Ibid.
[65] The Government of Canada, op. cit., p. 27.
[66] Ibid., p. 28.
[67] The Government of Canada, op. cit., p. 26.
[68] Canada Communications Group and the Canadian Chamber of Commerce, op. cit., pp. 396-397. The balance of the discussion of the TBS role is taken from this source.

Two of the Treasury Board Secretariat's branches are of major interest to this report:

1. Personnel Policy Branch, which acts as the Government's personnel manager and develops personnel policies and systems for managing the public service work force. It manages the policies and standards covering workforce adjustment, job classification and pay, and other general terms and conditions of employment, and the public service pension program. It coordinates the Government's human resource planning process, including employment equity and training policies, and human resources concerns.

   This branch also carries out the labor relations function in the public service. It develops policy on labor relations, compensation, discipline, strikes, staff relations training, and preparing the employer's position before the Public Services Staff Relations Board or the courts. It also negotiates collective agreements and represents the employer's position at adjudication and conciliation board proceedings.

2. Official Languages Branch, which monitors, audits, and evaluates the implementation and effectiveness of official language policy[69] in departments, agencies, and Crown corporations. It also manages Governmentwide automated information systems and data bases and performs other tasks associated with implementing the official language policy.

The Public Service Staff Relations Board is a quasi-judicial statutory tribunal responsible for collective bargaining and grievance adjudication conducted under the Public Service Staff Relations Act and the Parliamentary Employment and Staff Relations Act. Additionally, it administers certain provisions of the Canada Labor Code concerning occupational safety and health applicable to employees in the Public Service.[70]

[69] Canada is officially bilingual, recognizing both the English and French languages.
[70] Canada Communications Group and the Canadian Chamber of Commerce, op. cit., p. 327.

Appendix H. A Summary Comparison of the Rights and Benefits Granted to Surplus Employees by the Public Service of Canada and by the U. S. Civil Service During Staff Reductions

Canadian Public Servants

1. Receive priority consideration for other Public Service jobs.

2. Can be given the following (as needed) if they want to try to stay in Government:
   - Up to 2 years' retraining (1 year is guaranteed).
   - Salary protection for up to 1 year if placed in a new job at a lower rate than their previous job.
   - Outside job placement assistance (if in the Management Category).
   - Relocation assistance.

3. May choose voluntary separation, which grants monetary incentives since the affected employees are deemed to have been laid off:
   - Enhanced severance pay (normal is 1 week's pay for 1st year; 1/2 week for each subsequent year; enhanced is 2 weeks for 1st year; 1 week for each additional year).
   - If eligible to receive an immediate pension, a "separation benefit," which provides 1 additional week of pay for each year with the Public Service, up to an additional 15 weeks of pay.
   - "Pay in lieu of unfulfilled surplus notice," informally known as a "cashout." This permits up to 26 weeks of additional lump sum pay at the discretion of the Deputy Head. It is a "no extra cost" option available if agreeable to both the agency and the employee. If used, the agency cannot refill the position in any way (e.g., contract out). The actual number of additional weeks of lump sum payment is governed by the number of weeks the employee doesn't work during the surplus period (a maximum of 26 weeks equals the full 6 months).

4. May be granted a waiver of pension policy by the Government. This would permit an employee who is at least 55 years old but who doesn't have the minimum 30 years' service normally required for unreduced pension to receive his or her earned pension with no reduction.

United States Civil Servants

1. After receiving a specific RIF notice, receive: (a) pre-RIF priority referral by OPM to other agencies; and (b) post-RIF priority referral by OPM to other agencies for either 1 or 2 years and priority reemployment rights in their former agencies for 1 or 2 years.

2. May receive:
   - Repromotion priority if downgraded during a RIF.
   - Grade retention for 2 years (if they had 52 weeks in grade before being downgraded), followed by indefinite pay retention.
   - Job outplacement assistance.

3. Are entitled to:
   - Severance pay (1 week's pay for each of the first 10 years; service, plus 2 weeks' pay for each year over 10). A 10-percent age adjustment is added for each year the employee is over 40 years of age. The limit on severance pay is 1 year's salary.
   - Unemployment insurance based on the laws of the State where they work.
   - Lump-sum payment of accumulated and current accrued annual leave.
   - A refund of retirement deductions if separated before completing 5 years' service.
   - If separated after 5 years' service, a choice of: (a) leaving the retirement deductions with the Government and receiving a deferred annuity at age 62; or (b) receiving a refund for all retirement deductions (if not eligible for an annuity within 31 days after filing for a refund).
   - May retire if immediately eligible.

4. May retire under "early out" provisions if authorized by OPM. "Early out" permits retirement at age 50 with 20 years' service or at any age with 25 years' service, but the annuity is reduced by 1/6 of 1 percent for each full month (i.e., 2 percent for each year) that the person is under age 55.

U.S. Merit Systems Protection Board
1120 Vermont Avenue, NW
Washington, DC 20419

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE $300

BULK RATE
U.S.POSTAGE PAID
WASHINGTON, DC
PERMIT NO. G-113

A Report to the President and the Congress of the United States by the U.S. Merit Systems Protection Board