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Summary of Hearing on Flexible Benefits for Federal Employees by the House Subcommittee on Housing and Employment, Rep. Lantos, Chairman. There were only two other committee members there and they did not stay the entire time. The counsel was also there.

Following is a short summary of the testimonies and questions asked of witnesses. The full summaries are available.

Private Sector Witnesses

1. ASPA - espoused the Flex Benefits Program for Federal workers phased in either by benefit type (premium conversion and FSA) or by group.
2. Wyatt Associates - From 20 companies in 1980 to 2,000 presently offer Flexible Benefit Programs. Enables employees to maximize the compensation dollars provided to them. Adv: 1) employer has greater control over cost. Employer promises an amount of money vice a benefit level. 2) Employer gets greater return on benefit dollars. 3) employers can offer highly appealing benefits such as child care or elder care at little or no cost. 4) Accommodates acquisitions and mergers well. 5) Employer realizes savings as employees accept more cost sharing because of the tax advantage.

Suggested the following steps in conducting a study: 1) project planning, development of project team and education; 2) development of benefits philosophy and objectives; 3) review of existing programs and practices; 4) development of flexible benefits program (general plan design, credit generation, etc.); 5) analysis of implementation requirements and cost; 6) cost benefit analysis; 7) final report.

3. Employee Counsel on Flexible Compensation - formed by three Fortune 500 companies to encourage the development of Flexible Benefits Programs. Addressed why the large growth in popularity of Flexible Benefits Programs: 1) increased diversification of the American workforce; 2) provides cost effective benefits and satisfies the need for different benefits by this diverse workforce; 3) mechanism to change benefit structure (hinted that if OPM were considering changing the health insurance program it would be a good time to bring in a Flexible Benefits Program). Suggested the subcommittee consider the following issues before embarking on such an endeavor: 1) Federal employees need to be fully informed; 2) avoid communications problems by not resolving all difficulties in advances, such as Non-Discrimination Rules (she cautioned all to remember that in 1989 Non-Discrimination Rules apply to all health plans, not just Flexible Benefits Programs); 3) conversion to Flexible Benefits Program - for example, determine earnings base for pensions - either can recognize the reduced or the full amount. She recommended Government development full flexible benefits program with a finite group of people.

Questions: Asked each witness if they were hired by OPM what would they tell them to do? All agreed that OPM needed to develop objectives first. Wyatt representative said that objectives are critical. If OPM does it for cost saving reasons, he would tell them they cannot put in flex at the current benefit level without raising cost because of adverse selection. However, when questioned further by Lantos, he admitted it was possible to develop a plan design without raising the government contribution.

Governmental Agencies

4. OPM - Constance Horner/Jean Barber. Horner said OPM realize that we are moving into an area of acute labor shortage and that we must be able to recruit and retain highly qualified employees for Government employment. She said the major blocks to Flexible Benefits are the cost and administration. She also said that we could consider raising salaries vice using additional funds to provide a Flexible Benefits Program.

Questions:

Lantos ask if there is a standard difference between Federal workforce and private? Horner said they were basically the same. Lantos also questioned her concern re the loss of revenue by asking if she favored private industry employees taking advantage of pre-tax and why shouldn't the Federal employee. Horner said the country needs to make up its mind as to whether or not these tax advantages will continue. She said she is reluctant to throw the Feds in until the Government decides. Lantos said that the decision had been made "de facto" by Section 125 of the I.R.S. Code (permits the establishment of a cafeteria plan and allows the pre-tax advantage). He said that is the present thinking but it could change 5, 10 or 15 years from now. Horner said that they tried to change it last year by capping the FSAs. Lantos said Cap was not approved so Congress must concur in the FSAs. Lantos asked if it would help recruit and retain. Horner said yes unless there was other loss of revenue. Lantos asked for a copy of the previous study conducted by OPM (which Horner had called simply a "literature search").

Congressman Shays - criticized the recent Congressional budget exercise and said his main concern was budgetary - cost of benefits and administration. He would want a menu developed at zero cost. Horner said a program probably could be designed to be cost revenue and cited the OPM's Long-Term Care proposal as a way to provide a benefit with no cost (offset the cost through FEGLI). Shays went into a bit of a dissertation on the loss of FBI agents through transfers to areas with high cost of living. Then asked a question about isolating the administrative costs. Horner suggested that the redesign of FEHBP might save enough money to cover the administrative costs for a cafeteria plan.

Chief Counsel of Subcommittee. He asked why we do not have a test project. Horner said it was not permitted by law. He asked her if Lantos proposed a bill for a test project would they support it. Horner said it would depend on a study by the Administration. He asked what OPM had done to help employees meet their child care expenses. Horner said perhaps child care could be included under a cafeteria plan but it would have to be studied - depends on who pays and how much. He said GAO is recommending proceeding with FSA's. Cost to the employer would be zero and wondered if she agreed or not. Horner said they would have to look at it in terms of revenue impact and management activity. He also asked why Feds were different from private or State employees. Asked if OPM were studying flex benefits in conjunction with the FEHBP study and that it seemed to make sense to study that first and try to bring health in rather than study health and try to bring flex in. She agreed but said they were studying FEHBP first because there was already too much confusion with Thrift.

because Horner had indicated that OPM would study it, Lantos said that he questioned the deliberate speed of OPM at the expense of Federal worker's children and said Congress may force OPM to move. Horner said that she hopes OPM and Congress can reach an agreement on a smart way to proceed. She again suggested that we might want to consider paying employees more to permit them to pay for child care. Lantos said he didn't think it was a matter of having a certain dollar figure available to spend on Federal employees and choosing salary or benefits. He said in this instance the treatment of federal workers is inequitable and they are being discriminated against because private and some public sector employees can take a pre-tax advantage for certain benefits and Feds cannot.

5. GAO - Recommended premium conversion plus dependent care accounts. If all Federal employees used FSAs for health and life insurance, it would cost about \$320 to 600 million in tax revenue based on the 15% and 28% marginal tax rates. Adding dependent care would increase the tax loss. He also said the government already has Thrift which is like private sector.

Questions: Lantos asked about the comparability of Federal pay with the private sector. GAO said there is a 24% lag when you do not include fringe benefits. With fringe benefits it is 4-5% less. Either way, the Federal employee is substantially behind. Lantos asked then why not offer a cafeteria plan since it is optional. GAO said that they do not suggest the Federal worker be deprived. The concern is the relative newness of the FSA and Cafeteria Plan. Once we study it more, we could move quickly. GAO suggests pilot project but said to do so, law would have to be changed. Lantos asked them to work with the Subcommittee on selecting a pilot agency. Lantos asked if the reduced salary would affect Social Security benefits. GAO said yes for those earning less than \$45K. Retirement benefits are based on the lower amount. Lantos asked how dependent care could be arranged without increasing revenue. GAO said to establish FSAs for dependent care which involve no additional federal government contribution (but there may be an administrative burden). Congress must make a decision on tax issues.

Unions

7. NTEU - They were pro as long as the benefits levels and cost to employees stay the same. Suggested that FSAs be established at the agency vice OPM level. They are terrified cost savings is the motive. Wants to be sure the pricing formula does not increase the employee's share. Advocates employee choice.

8. NFFE - suggests this could be used to narrow the pay gap. Would provide an equitable distribution of benefits in this country. Wipe out the windfall to the employer for those who take no benefits and receive no contribution. Problems: IRS has not yet written rules for Section 89 (Anti-Discrimination), Government pay centers system is a problem for current enrollment in health and life so needs to be fixed first, distrust of OPM (feels collective bargaining is the answer).

9. AFGE - FSA's and Cafeteria Benefits should not replace current benefits. Why not directly increase employees' pay. Thinks pay should receive top priority. Didn't like the fact that tax advantage depends on tax status so would increase employee inequity. Would solve child care but wondered if child care at sites wouldn't also solve the problem. All in all, would go along with Flex Benefits for Feds as long as it was not used to reduce benefits or raise costs to the employees.

Questions: Lantos observed that there seemed to be disagreement among the union representatives and wanted to pursue that. He further commented that the intent of his looking into this issue was not to "squeeze" the Feds. He said that the unions need not be concerned about this Administration's track record in treating Federal employees because they were short-term. He said the intent is to provide Feds with equal benefits. He said he was at a loss in responding to AFGE's suggestion re increasing pay instead. He thinks they are different issues. He said again that there is not a certain pot of money set aside for Feds to use for flex or salaries. AFGE said that they feel that way because Congress does recognize the cost of tax expenditures. But, Lantos said that Congress does continue to allow cafeteria benefits and will allow them to continue. The issue is whether Federal employees should be able to participate in them. The issue of tax revenue is a separate issue. AFGE said that it still doesn't address the primary concern which is pay. Lantos asked NTEU if they were in favor of some demonstration or pilot project. He wants the unions to help select the agency for the test bed. NTEU agreed that the union would like to help select and would seek an agency that had a good reputation for working well with employees and unions and possessed a wide grade spread. Lantos asked what NTEU thought of Horner's timeline. NTEU cited the success of on-site child care facilities and said that they eased the mind of workers plus attracted new employees.

Lantos said in conclusion that he believes that this is a very high priority issue and will pursue with unions and other government agencies so that as we move toward legislation, it will have broad-based support.

NOTE: To date, no legislation has been sponsored and we wonder if Lantos' subcommittee has the jurisdiction to sponsor such legislation. There were members from the Post Office and Civil Service Committee and the Governmental Affairs Committee in the audience.