



December 23, 2004

The Honorable Robert Simmons
2 Courthouse Square
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Fax: (860)886-2974

Subject - Department of Defense (DoD) National Security Personnel System (NSPS) Implementation

Dear Congressman Simmons,

We respectfully request your support in prohibiting the DoD from implementing the National Security Personnel System (NSPS) at DoD laboratories prior to October 1, 2008, and from exceeding the 300,000 implementation ceiling prior to certification of the system by the Secretary of Defense, as required by Congress in Section 9902 of the National Defense Authorization Act (NDAA) for FY 2004.

As DoD employees working at the Naval Undersea Warfare Center (NUWC) in Newport, RI, as well as Presidents of the National Association of Government Employees (NAGE) local unions representing 2,500 civilian employees, we are outraged by Secretary Rumsfeld's blatant disregard for the NSPS law and congressional intent as evident by the latest DoD plan to implement the Labor-Management Relations (LR) portion of the National Security Personnel System (NSPS) at NUWC and other DoD labs beginning in July 2005, and in applying the system to over 700,000 civilian employees simultaneously.

As you know, the 2004 NDAA (as specified in H.R. 1588) addresses the participation, if any, of DoD research labs in NSPS, and specifies the following:

- Section 9902(c)(1) states: "The National Security Personnel System shall not apply with respect to a laboratory under paragraph (2) before October 1, 2008, and shall apply on or after October 1, 2008, only to the extent that the Secretary determines that the flexibilities provided by the National Security Personnel System are greater than the flexibilities provided to those laboratories pursuant to section 342 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2721) and section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note), respectively."

- Section 9902(c)(2) states: "The laboratories to which this subsection applies are - (G) the Naval Sea Systems Command Centers".

NUWC Division Newport is a laboratory within the Naval Sea Systems Command Centers, and therefore is excluded from all aspects of NSPS until October 1, 2008, and then only after a determination by the Secretary that NSPS provides the DoD with greater flexibility than the regulations currently in place at the labs.

Now it appears that Secretary Rumsfeld has decided to ignore these provisions of the law, and has directed NSPS implementation at DoD labs during the initial phase. During a

December 14, 2004 meeting with the United DoD Workers Coalition (UDWC), NSPS Program Executive Officer Mary Lacey stated that the Labor Relations portion of NSPS would be implemented across the entire Defense Department beginning in July 2005, including the DoD labs. This statement was also included in a letter from Ms. Lacey to the Presidents of all DoD Local unions on the same day.

With respect to "Phase-In" of NSPS, Section 9902(l) states: "Phase-In. – The Secretary may apply the National Security Personnel System –
(1) to an organizational or functional unit that includes up to 300,000 civilian employees of the Department of Defense, without having to make a determination described in paragraph (2); and
(2) to an organizational or functional unit that includes more than 300,000 civilian employees of the Department of Defense, if the Secretary determines in accordance with subsection (a) that the Department has in place a performance management system that meets the criteria specified in subsection (b)."

This statutory language seems to prohibit the Department from implementing NSPS for all 700,000 civilian employees beginning in July 2005 as announced on December 14th.

On May 25, 2004, top DoD and union officials met in Washington D.C. with Navy Secretary Gordon England. Secretary England made it clear that it is not his intention to strip the unions of their ability to protect their members with the creation of NSPS, and he planned to meet with NAGE National President David Holway and other union representatives every 60 days. Unfortunately this has not happened, and the DoD has provided no details of the NSPS LR regulations to the unions during subsequent meetings.

This lack of communication by the Department regarding NSPS was the subject of a recent letter (dated 20 Dec 04) from 126 members of Congress to Secretary Rumsfeld and OPM Director James. This letter expresses the concern that these members have with the DoD's apparent violation of NSPS and Federal Service Labor-Management Relations law with respect to communicating with the unions about NSPS. The letter urges the DoD to provide copies of the NSPS regulations to the unions and the House Committee on Government Reform before they are published in the Federal Register for public comment.

Although the Department has failed to provide detailed information about these regulations, previously released versions of this plan include provisions that would:

- a. Give DoD total power to decide what policies are subject to negotiation with employees and their unions. Simply put, employees would have virtually no voice in the workplace.
- b. Take away the right to an unbiased appeal process for employees with complaints about unfair treatment at work. All complaints would ultimately be settled by a panel hand-picked by the Secretary of Defense.
- c. Deny union membership and collective bargaining rights to as many as 200,000 employees, ranging from clerical staff to professional employees, including 1,800 scientists and engineers currently represented by the Federal Union of Scientists & Engineers (FUSE), NAGE Local R1-144 in Newport, RI.;
as well as many other drastic and potentially harmful changes to current civil service law.

As you know, DoD employees already have very limited bargaining rights, which the DoD is trying to diminish even further. We cannot negotiate over wages, benefits, or government-

wide rules, regulations or laws, other than limited impact bargaining. DoD employees have no right to strike or take other job actions allowed in the private sector, all in the interest of a better, more efficient government.

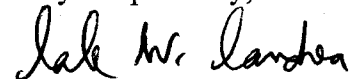
We find it offensive that these limited rights and freedoms would be taken away from patriotic DoD employees, including many veterans and others who have volunteered to work in combat areas overseas, especially when we are working for these same rights and freedoms for the people of Iraq and Afghanistan.

We also find it offensive that the DoD would ignore the intent of Congress to exclude the DoD labs from NSPS, considering the language of the NSPS law and the "Demonstration Projects" currently in place at these labs under previous Congressional legislation, which have had outstanding success.

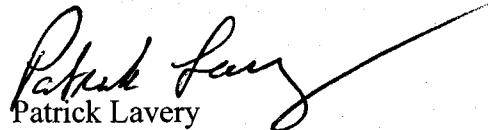
For these reasons, we respectfully urge you to oppose this plan by whatever means are available to you, including the introduction of legislation to block this unfair and unnecessary plan. If we can provide you with more information or assistance in this matter, or if you would like to discuss it further, please contact us at the addresses/phone numbers listed below.

On behalf of the 2,500 hard working and dedicated Navy employees we represent, we thank you for your attention to this very important matter.

Very Respectfully,



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