



AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

J. David Cox, Sr.
National President

Eugene Hudson, Jr.
National Secretary-Treasurer

Augusta Y. Thomas
National Vice President for
Women and Fair Practices

January 16, 2013

The Honorable Frederick E. Vollrath
Principal Deputy Assistant Secretary of Defense for Readiness and Force Management
Acting Assistant Secretary of Defense for Readiness and Force Management
4000 Defense, The Pentagon
Washington, DC 20301
Email: Shareia.Oliver@OSD.Mil

Dear Mr. Vollrath:

On behalf of the American Federation of Government Employees, AFL-CIO, I thank you for the conference calls you have conducted recently to discuss the impact of budget constraints on the civilian workforce. I regret not being able to participate on the call you conducted on Monday, but thanks for responding to the questions from my staff.

Before following up on their remarks, I wanted to briefly discuss my concerns about borrowed military manpower (BMM). It was very gratifying that you were the first one on the conference call to raise a concern about the substitution of BMM for civilian personnel. With sequestration and the arbitrary FY13 National Defense Authorization Act (NDAA) cuts in the civilian and service contractor workforces, schemes will no doubt be advanced to secure exceptions to the BMM "Guidance Related to the Utilization of Military Manpower to Perform Certain Functions" issued by your office on March 2, 2013, in order to use military personnel outside of their Military Occupation Specialties to perform non-military functions. Ultimately, such exceptions are predicated on avoiding the use of the Department's required costing methodology (DTM-09-007). The inevitable result of such exceptions will be direct conversions from civilian performance to BMM which will lead to significantly higher costs to the taxpayers. I urge your office as well as the Office of Cost Assessment and Program Evaluation to strongly resist such schemes.

1. Cuts for civilians, but not for contractors.

AFGE is very concerned about the inequitable approach taken by the January 10 guidance issued by the Deputy Secretary. Hiring freezes, firing of temporary and term employees, incentives for civilian personnel to retire, and extensive furloughs of in-house staff constitute big hits on the civilian workforce. In contrast, service contractors emerge relatively unscathed. The Department is to "review contracts and studies for possible cost savings"—a completely toothless initiative. Other approved initiatives may hit service contractors, e.g., reductions in base operations funding and facilities maintenance, but they will have just as much if not more impact on civilian personnel.

How is this inequitable approach consistent with the Total Force Management laws? How does this reflect a holistic, analytically-based approach? How does this promote elementary principles of equity? If service contract spending has grown twice as fast as civilian personnel spending over the last ten years, why is the Department focused almost exclusively on cutting civilian personnel funding for the purposes of sequestration?

I ask these questions not to be recriminatory because I know you and your staff would never have produced guidance so manifestly unfair and one-sided. However, in terms of basic fairness and workforce management, this guidance does not pass the laugh test. I understand you indicated that there were no obstacles, such as the lack of an inventory of contract services, which might prevent the Department from asking contractors to make sacrifices comparable to those being required of civilian personnel. So what is the explanation?

It would be disingenuous for the Department to insist that it is merely providing components with guidance, not actually directing them to cut civilian personnel. Although the guidance theoretically leaves the actual mix of the cuts up to the components, there is no question that the guidance prescribes an array of cuts for civilian personnel, all of them easily achieved, and only contingent cuts for service contractors. The Navy's January 14 "Implementation of Annual Continuing Resolution of the FY2013 Department of the Navy Budget" is silent on service contractors with respect to sequestration. The Air Force's January 14 "Fiscal Year 2013 Near-Term Actions to Handle Budgetary Uncertainty" focuses more attention on service contractors, but, again, the cuts are contingent: "Where practical...Review contracts for possible" savings.

Moreover, assumptions have apparently been made for savings from the use of various actions. For example, per the Navy's guidance, "BSOs are reminded that Tier Alpha presumed a level of savings from these cuts" to temporary and term civilian employees. What are the assumed savings from the panoply of actions that would reduce spending on civilian personnel? What are the assumed savings from the contingent actions that might be taken to reduce spending on service contracts? And should the Department both acknowledge that civilian personnel are far more flexible than service contractors and why should that certitude not thoroughly inform the Department's workforce management policies?

As you pointed out, under the FY13 NDAA, the Department is required to impose additional arbitrary cuts in its civilian and service contract workforces. With respect to the NDAA cut, AFGE has always been skeptical that the Department will actually make any of the required reductions in service contracts. Historically, the Department has always been able to impose and enforce cuts in civilian personnel. However, the same cannot be said with respect to service contracts. Our skepticism that service contracts will be cut and actually enforced pursuant to the NDAA has only increased upon the Department's issuance of sequestration guidance.

2. Increased danger of direct conversions.

I have a related concern about direct conversions. Thanks to the leadership of your office, the Department has taken the lead across the entire federal government in publishing guidance to prevent illegal direct conversions to contractors and inappropriate conversions to military performance. In December 2011, when Personnel and Readiness issued its first guidance against direct conversions, it was written then that the Department "must be particularly vigilant to prevent the inappropriate conversion of work to contract performance".

I don't know what a heightened state of readiness would be over and above "particular vigilance", but one is certainly mandatory now that we are confronted with the irrational and arbitrary twins of sequestration and the NDAA cut. The January 10 guidance calls on the Department to fire temporary and term employees, incentivize civilian retirement, and freeze civilian hiring. But what is going to happen to the workload that is now or would be performed by those civilian employees? It's safe to say that very little of it is going away. And if not, won't this work simply be arbitrarily shifted to contractors, illegally, or military personnel, inappropriately?

We must be creative in coming up with additional methods to deter, detect, and reverse direct conversions. Reissuance of the guidance to remind Department personnel that the law and the guidance also apply to temporary and term employees as well as Non-Appropriated Fund employees is one option. Another would be to include explicit reference to this guidance in any future materials issued by the Department in relation to compliance with sequestration or the NDAA cut. After all, the January 10 guidance is the most widely read document in the Department. What better way to get the word out on direct conversions than to include it in all future guidance on “handling budgetary uncertainty”?

3. Collective bargaining.

The January 10th guidance has a parenthetical reference to “...appropriate consultation with union representatives consistent with Executive Order 13522.” Beyond the Executive Order, the Department and its managers have collective bargaining obligations under the Labor-Management Statute. In your January 9th conference call, you urged us to reach out to our management counterparts at the level of recognition now to bargain over furloughs and other matters that might occur if the worst happens. Unfortunately, too many managers at the level of recognition either don’t understand their collective bargaining obligations or feel they can sidestep them with impunity. We asked you what guidance has been given to managers telling them to engage with their unions. You said that none had been issued but that you would tell the Components of your expectation. The January 10th guidance was a missed opportunity to make a strong statement that DoD managers must carry out their collective bargaining obligations fully in the handling of budgetary uncertainty. This message must be repeated often and should be part of all future guidance. We also asked you how you can ensure that the message gets through to the managers at the frontlines who are the ones who do the bargaining. All too often such exhortations stop at a certain level of HR or LR and never reach their intended targets. You said you would look into that and I urge you to do so.

The January 10th guidance speaks of consultation consistent with Executive Order 13522. That Order calls for far more than just consultation. It calls for allowing the union pre-decisional involvement (PDI) in all workplace matters and making a good faith attempt to resolve issues. In fact, the co-chairs of the National Council on Federal Labor-Management Relations issued a memorandum on pre-decisional involvement on January 19, 2011 and used budget matters as an example of a good PDI topic. Obviously, when we first hear about guidance such as the January 10th memorandum when we read it in the newspaper, we believe that the Department has not followed either the letter or the spirit of the Executive Order. I accept your apology for the way the guidance was issued and your assurances that you will do your best to see that this does not happen again.

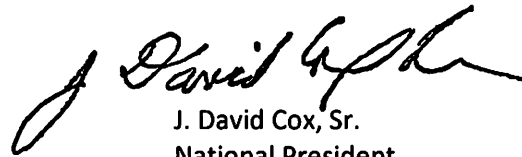
4. New beginnings.

We have expressed our disappointment that the Department rejected several of the recommendations developed jointly by labor and management on the New Beginnings Design Teams. In meetings with the Department and in a letter sent last week we have asked for written reasons the recommendations were not accepted. In the conference call you said that you could not commit to that. I urge you to reconsider. Starting with the conference in Los Angeles that kicked off the process and continuing through the design teams and beyond, dozens of dedicated employees, both labor and management gave of their time, energy and good ideas for more than a year, often spending weeks away from their families. They read and researched, brainstormed, talked and discussed and ultimately agreed jointly on 99 recommendations. They deserve to know why some of the products of their hard work and collaboration were not accepted. They can’t all be brought back together for an oral presentation, but they should at least get a written presentation of your rationale. In addition, you have agreed to

continue to meet with labor representatives through the Roundtable process to move on to next steps and implementation of New Beginnings. The most effective use of our time together will come if we have an opportunity to study your written reasons for rejecting recommendations in advance of our meeting. We look forward to carrying out the NDAA 2010's call for union involvement in the implementation as well as the design of the new systems.

Thanks again for taking the time to conduct the conference calls. I hope that this correspondence doesn't make you wonder if your efforts are sufficiently appreciated. Indeed, they are. In fact, I write such correspondence with the knowledge that you and your staff are truly interested in a holistic, analytically-based approach to sourcing and workforce management issues and labor-management relations and are prepared to fight within the Department to ensure that this laudable objective can be achieved.

Sincerely,

A handwritten signature in black ink, appearing to read "J. David Cox, Sr.", with a stylized flourish at the end.

J. David Cox, Sr.
National President