

Public Comments on Agency Implementation Plans

United States Department of Agriculture

From: John H. Salch, President, AFGE Local 3247

Date of Submission: March 26, 2010

Date: March 26, 2010
To: lmrcouncil@opm.gov
CC: kaplaa@afge.org

From: John H. Salch, President, AFGE Local 3247
PO Box 281
Peoria, Illinois 61650
afge3247@ars.usda.gov

Subject: State of Labor Management Relations in USDA

I am the President of Local 3247 in the National Center for Agricultural Utilization Research. This Research Center is in the Agricultural Research Service (ARS) a sub Agency of the United States Department of Agriculture (USDA). We are located in Peoria, Illinois.

I have studied the United States Department of Agriculture (USDA) Implementation Plan. There are some difficulties. The Implementation Plan on file at OPM March 19, 2010 claims that "the Office of the Secretary and the Assistant Secretary for Administration (ASA) of the USDA met with USDA's unions to hear and respond to their concerns. I can state without doubt that no one has asked this Local for any input or to volunteer for anything.

The Achilles Heel of the USDA Implementation Plan is the lack of inclusion in the planning of Union Officers from the level of recognition. If you consult only National Union representatives you will learn little about the state of labor management relations at the working level. It is only in the trenches that you will find the truth about labor-management relations in the USDA.

On the other hand, including Agency Labor Relations Practitioners in the initial planning is very dangerous. They have been so schooled in destroying Local Unions that their inclusion on any forum may negate any potential good that could result from the forums. The driving force of the HR and ER personnel has been to discredit everything any Union tries to achieve. They fight us to the death on things of both no importance and of great importance. Indeed, they will probably spend their efforts telling everyone how incompetent the Union Locals are and never make worthwhile comments on how to return the Unions to useful functioning.

If you really want to know the state of labor relations in the government, it would be very revealing to order the Agencies to release to the Unions all private guidance that the Agencies have given to management on how to deal with the Unions. We are forbidden to ask for these instructions even by the Freedom of Information Act. If you let the sun shine on these documents, you may begin to understand the impossible situation Unions in the Agricultural Research Service have endured for decades.

We have been forced to work in a vacuum. The Agency will not educate either the Unions or the supervisors on even the rudiments of the Fair Labor Standards Act or of the labor relations laws of the Civil Service Reform Act. They fight us over all official time and threaten us when we do use it and yet they nit pick every letter of the law. They constantly use ploys such as "particularized need" to delay and deny information to us.

They are constantly creating violations of the contract to saturate the officers of the Union. They delay, delay, delay, as a form of strategy. They implement changes without consultation. If the Union requests negotiations they simply refuse to negotiate. If the Union files and wins an Unfair Labor Practice, the worst the Federal Labor Relations Authority will do is have the Agency sign an agreement not to do it again. They promptly do it again. The process repeats and the FLRA slaps their wrist again.

In our opinion, the FLRA regional offices seem to part of the problem. Either the Authority is a paper tiger with no value at all, or for some reason has a buddy buddy relationship with the Agencies. We have won a handful of FLRA settlements which the Agency ignores with impunity and seem to have no effect on subsequent Authority actions. We have never yet had the status quo restored by an Authority decision. The Authority's agents get very defensive when questioned about it. We suspect that the problem comes from much higher up.

The Labor Law itself, as in the Civil Service Reform Act, has set up a deadly trap for the Unions. No matter how badly we are treated by the Agencies, we still must represent all employees. This is so unfair that the courts are starting to realize the fundamental unconstitutionality of it. We have to give full attention to those who do not pay dues, hate and badmouth the Union, and yet, come running to us to save them when they get in trouble. They even sue us if we are so saturated with Agency violations that we give members first priority. The overload of work on the Stewards and Officers eventually overwhelms them and they give up.

And finally, never forget that the Officers and Stewards of the Unions in the Agricultural Research Service live in a nightmare of fear. The blatant Union Animus results in a continuous hostile environment. Supervisors continually badmouth the Union and many of their employees come to believe it. Most of the officers believe unshakably that they are targeted for special persecution and will be hurt sooner or later. It is the fear and the weakness of FLRA and EEO systems that cause so many fine officers to lose heart and give up Union activities.

The Agricultural Research Service uses the one supervisor for one employee approach. This means that every scientist is a supervisor. The scientists do not like being supervisors and rarely learn any of the labor laws. They therefore do exactly what hateful administrative officers or malicious Labor Relations Personnel from HR tell them. The one on one system of supervision apparently was adopted by ARS to remove the employees

with the most experience from the Union. This resulted in a huge denial of talent to the Union. Most scientists seem to lack the social skills to be supervisors. That is why we became scientists in the first place.

I could go on forever. If you really want to improve labor management relations, our recommendations for improving the efficiency of the government are attached.

Department of Commerce

From: Randi Ciszewski, International Organization of Masters, Mates & Pilots (AFL-CIO)

Date of Submission: March 18, 2010

National Council Members:

The Department of Commerce's Implementation Plan is in violation of Executive Order 13522 as well as 5 USC 7116 in that the Department failed to work together with two international maritime unions during a meeting held 2 March 2010 at the Department of Commerce. The International Organization of Masters, Mates & Pilots (MMP) and the Marine Engineers' Beneficial Association (MEBA) were precluded from participating in the meeting pertaining to the implementation plan and establishment of a Labor Management Forums with Department of Commerce. As such, the agency violated EO 13522 by failing to work together with its union partners and violated 5 USC 7116 (1) and (5), (7), and (8) by refusing to consult or negotiate in good faith with MMP and MEBA as lawfully required and by enforcing a rule and regulation which is in conflict with the MMP and MEBA CBAs which were in effect before the date the of the Executive Order refuse to comply with any provision of this chapter.

I am unaware of any other ULPs resulting from management's unwillingness to bargain with labor over establishment of Labor Management Forums and I certainly do not want to raise the test case. The Unions have not yet but do anticipate filing ULPs over the Agency Implementation Plan submitted by Department of Commerce. Please know that the plan was not reached by consensus inasmuch as neither MMP nor MEBA were allowed to represent its members during the meeting held at Dept of Commerce's offices on 2 Mar 10.

The Unions I represent are very interested in participating in the Council's pilot projects and we respectfully request consideration in the Council's development of recommendations for establishing the pilot projects. Unfortunately, as a result of the Department of Commerce's violation of law and the EO, we cannot and will not be considered for a pilot project because maritime labor unions were and will continue to be precluded from representing our membership (classic ULP). The below letters were sent to DoC, GSA, OMB, OPM, FLRA and other agency officials.

Department of Defense

From: David Starr, President, Fairchild Federal Employees Union

Date of Submission: March 2, 2010

To whom it may concern.

When I originally read about this council the President said he wanted an independent Union on the Board where was the recruiting done and how is it that there is no independent on the counsel?

From: Bill Ward, President, AFGE Local 1834

Date of Submission: March 3, 2010

To Whom it may concern:

We would like to be considered for the Pilot Program on 7106(b)(1) bargaining. Currently we are in the middle of bargaining ground rules for our upcoming contract negotiations. As we are currently working on proposals this would be an excellent opportunity to just add B1 issues. Thank you for your consideration in this matter.

From: Steve Johnson, President, AFGE Local 1486

Date of Submission: March 19, 2010

What Consultation? Offutt AFB Labor relations office has not contacted this local at all regarding this.

From: Elmer Harmon, President, AFGE Local 2635

Date of Submission: March 24, 2010

AFGE Local 2635 AFL-CIO has for months been trying to engage our management counterparts in discussions on the implementation of labor management partnerships without success. This facility in Eastern Maine is a Navy transmitter facility with 86 civil service employees. Currently one Local, AFGE 2635 represents bargaining unit employees from three different commands: CNRMA, NAVFAC, and NCTAMS LANT DET Cutler. Consequently, as president of the labor organization I have to consult/negotiate with three different Human Resources officers. Of the three, only NCTAMS LANT DET Cutler has shown any interest in coming to the table to discuss EO 13522. DOD's implementation plan, in my view, seems to delay any dialogue at the local level which will consequently delay the stand up of any local labor management partnerships. The response that I have received from HR officials at CNRMA and NAVFAC is that they are waiting for higher Navy guidance. I cannot help but wonder when that might come.

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From: Robert P. Kaste, President, AFGE Local 3176

Date of Submission: March 26, 2010

I am the President of AFGE Local 3176 representing the scientists and engineers of the Army Research Laboratory's (ARL) Materials and Manufacturing Research Division. As part of the Department of Defense, we should have been contacted by the DoD or by ARL in regard to this matter. Often, the Human Research Department of ARL will contact me regarding proposed changes in policies, procedures or other labor relations issues. However, at this point in time, I have not been contacted by anyone in the DoD regarding this issue. This does not demonstrate the ideals outlined in the DoD's Implementation Plan for Executive Order 13522.

From: Edward J. Elder, Esq., Regional Counsel, NAGE/SEIU

Date of Submission: March 29, 2010

March 29, 2010

To: John Berry and Jeff Zients, Co Chairs
National Council on Labor-Management Relations

From: David Holway, President
National Association of Government Employees

Subject: Comments on the Implementation Plan Submitted by the Department of Defense.

Dear Sirs.

The National Association of Government Employees, SEIU Local 5000 (NAGE), hereby presents the following comments in response to the plan submitted by the Department of Defense (DoD or Department), pursuant to Executive Order 13522 (the Order). NAGE has gathered these comments from its members and officers and presents them on their behalf.

- The level of labor management relations is so low among some Department components, that substantial efforts will be needed to build confidence in partnership participation through use of a facilitator.
- A meaningful baseline survey of labor relations must be developed without delay and implemented across the Department.
- A target date for establishment of forums should be set by June 7, 2010, but not later than August 1, 2010. These forums should be established at the “working level,” with specific schedules and agenda topics for meaningful discussion by specific forum members developed with labor.
- Metrics should include, at a minimum, numbers of grievances, unfair labor practices filed, EEO complaints, arbitrations, court actions, MSPB actions, impasse actions, labor-management forum establishment, labor-management forum meetings, and agency direct and indirect costs expended on these labor relations activities for fiscal year.
- The implementation plan and the partnerships established by the Department should include a declaration that “The Department and labor are committed to the continuation of these labor-management forums unless such forums are specifically abolished by Presidential Executive Order or specific congressional action.”

Comments on the Implementation Plan Submitted by the Department of Defense, continued.

NAGE recommends the Department adopt, pursuant to Section 4 of the Order, a pilot program for Department police officers. The program would extend the status of “law enforcement officer” to all employees who carry a firearm and are involved in the investigation or apprehension of either suspected or convicted criminals. Such an extension would include changes to these employee’s benefits, such as pay scales and retirement benefits.

Department of Energy

**From: William McGill, Director, Government Employees Department,
International Brotherhood of Electrical Workers**

Date of Submission: April 5, 2010

DOE Implementation Plan for adherence with E.O. 13522

Background

The DOE plan states “This plan has been jointly developed by union representatives on the requirements set forth in President Obama’s order”

The IBEW represents a significant number of employees at the DOE and has not been involved in the development of this plan at the National level and have just recently been given a name to address our concerns with up to that point we had only gotten the run around trying to get information. Deputy Secretary Poneman didn’t even know of the EO and has not gotten back with me on it. The room at our meeting on the DOE effort on revamping safety was full of every union that is at DOE and no one said they had been consulted. If you can bring all these folks together for safety why not on the EO, somebody has not carried the ball on this in my opinion.

The DOE plan states “There is no one union within the Department with “National Recognition” or “Consultation Rights.” Therefore, all negotiations and discussions with the unions are conducted at the local levels of recognition. As a result, we are implementing elements of this plan locally with each union.”

Minimally forums need to be established at the Department level i.e. National Level, component level i.e. WAPA, and at all the units of recognition. The IBEW is not aware of involvement at any level of DOE where it represents employees in the development of any forums. None of our Locals have informed us of any talks except that at WAPA the head HR person contacted our Government Coordinating Council Chairman and indicated that they would use them as the forum to meet. That they would follow a current strategic plan which is unacceptable without concurrence from all locals on that council and that this would keep it from the local level agreements at each site we have which not only includes all of the Western bargaining units but the other areas where the IBEW has exclusive recognition.

Describe how the Department will conduct a baseline assessment of the current state of labor relations within the Department

This section reads well, however The DOE plan should also include training for managers and union representatives concerning how to have a successful partnership.

In the one area where there has been a contact made there has been no effort to address the current state of labor relations within Western.

2. Report the extent to which the Department has established labor-management forums, as set forth in section 3 (a) (i) of the order, or may participate in the pilot projects described in section 4 of the order.

The DOE states “The Department and each of the seven (7) unions, which covers eight (8) site offices have created forums that will evaluate.....”

Again the IBEW is unaware of any forums being established in any of the several component levels where the IBEW represents employees. All unions must be included in the plan to establish forums at all levels Department, component, local, etc.

3. How will the Department work with the exclusive representatives of its employees through its labor-management forums to develop department, agency or bargaining unit specific metrics to monitor improvements in areas such as labor-management satisfaction, productive gains, cost savings, and other areas as identified by the relevant labor-management forums’ participants.

In bullet point 2 the DOE states “management and local unions are reviewing their charters and will align them as much as possible to the role of the Labor Management Forums.

The IBEW is unaware of any forums being established in any of the several component levels of DOE where it represents employees. There has also been no plans drafted by DOE or Western that adhere to the basic principles that the National Council has adopted as well as OPM.

In bullet point 3 the DOE states “Focus of each of the forums will be on internal communications”

The IBEW believes these communications are a good thing; however nowhere in this entire implementation plan does the DOE address “pre-decisional involvement”. Surely a discussion with one person does not include the stakeholders in the pre-decisional process.

4. Explain the Department’s plan for devoting sufficient resources to the implementation of the plan.

A stronger and more specific statement of devoting resources should be made and a commitment to paying duty time as well as per-diem, and other associated expenses should be made.

From: Barry R. Clark, President, NTEU Chapter 228

Date of Submission: April 5, 2010

Attached please find comments from Chapters 213 and 228 of the National Treasury Employees Union (NTEU) on the Department of Energy’s Implementation Plan for E.O.

13522. As you will see in our comments, the Department seriously misrepresented its efforts and this Plan in no way is a collaborative effort with NTEU. Throughout the document management contends it was jointly prepared with the Union. This was neither true at Headquarters nor at any of the Department's 7 Field Sites with Unions.

It is a sorry state of affairs that the first deliverable from the Department of Energy on the subject of Labor/Management Forums is a work of pure fiction.

Comments from Chapter 213 and 228 of the National Treasury Employees Union (NTEU) regarding Agency implementation plan for Executive Order 13522 submitted by the U. S. Department of Energy.

Thank you for allowing us to submit our comments regarding the Department of Energy's (DOE's) posted implementation plan. Before wading into the substantive items of the plan, we first must alert you to the many factual anomalies asserted by DOE management in the document.

First, DOE's plan states that, "*This plan has been jointly developed by Union representatives on the requirements set forth in President Obama's order.*" You should be aware that NTEU Chapters 213 and 228 did not jointly develop the submitted plan with DOE management. Indeed, the first that NTEU representatives knew of the existence of the submitted plan was when it was posted to the National Council's FMLR website. Even then, DOE did not inform NTEU leaders that the document had been posted. Although we continually requested to meet with DOE management since the announcement of the Order in December 2009, DOE management met with us for less than 90 minutes on March 2, 2010. At that meeting we expressed concerns that DOE's proposal to limit the plan to mere execution of one element of their Strategic Plan, Management Excellence, was insufficient and we would welcome the opportunity to work with them to develop a more appropriate plan. In fact, it was rather disingenuous and hardly an expression of labor-management partnership. We made it clear that NTEU did not agree with management's approach as it clearly ignored the plain language of the Executive Order. Whether it even adhered to Office of Personnel Management Director John Berry's guidance is not clear, since NTEU was not involved on a pre-decisional basis. We heard nothing except management reiterating that "we (management) have a deliverable owed to Jeff Dowell (Office of the Chief Human Capital Officer) identifying which goal we will focus on." As such, we submitted our own ideas to management on March 9, 2010, which were based on Articles 14 and 14.A in the existing Collective Bargaining Agreement and adaptation of a Labor-Management Forum plan already implemented under Executive Order 13522. Management forwarded our document up the line with significant changes they made and stated "This is what the Union wrote." We have received no response to those proposals to date nor have we been invited to comment on the submitted plan, which does not reflect the spirit or substance of the plan or the brief discussion that was held.

Second, the plan also asserts that, "*Department and its Unions have agreed to focus on process-improving performance goals in the areas of "employee engagement" and "communication".* Although these are lofty and worthy goals, NTEU did not agree that these elements would be the focus of our efforts. We can't agree or disagree with something that has never been presented to us. Management has not engaged us in a

discussion of these elements. Moreover, the plain language of the Executive Order states "...pre-decisional involvement in all workplace matters to the fullest extent practicable...."

Consequently, the assertion that NTEU had meaningful (or any) input into the elements of DOE's submitted plan will not bear scrutiny. The method by which DOE submitted these plans to the council, claiming significant NTEU involvement when none existed and unilaterally deciding which goals are important, should be of great concern as the Council evaluates the plan. It is difficult to see how partnership can succeed when one of the partners initially embarks on such a disingenuous and autocratic path.

The plan seems to miss the purpose of the Executive Order which is to tap into opportunities to improve labor/management relations, not to insert management as a new representative of the employees. The Department has been doing employee surveys regularly for years. This plan calls for more (or a continuation of) employee surveys. This is merely business as usual. We recommend appointment of a third-party assessor to determine the baseline of Union/Management interactions and relations at each locality with Union coverage.

Part 2 of the plan also states that, "*The department and each of the seven (7) Unions, which cover eight (8) site offices have created forums that will evaluate the performance culture to determine the extent to which employees feel that performance expectations are communicated clearly and to the extent to which employees believe that it is measured fairly.*" NTEU is unaware of such forums and neither are any of the Unions at our Field Sites. Moreover, the Agency has conducted OPM surveys for years that purportedly looked into employee engagement. It is difficult to see how doing it "one more time" will yield any useful information regarding employee engagement.

Management makes a statement in paragraph 3 of their document that seems to be the basis for ignoring the Unions and our comments. "There is no one union within the Department with "National Recognition" or "Consultation Rights." Therefore all negotiations and discussions with the unions are conducted at the local levels of recognition."

It is true that there is no one Union with national recognition at the Department. However, "all negotiations and discussions" with NTEU Chapters 213 and 228 took place in a single meeting less than 1 ½ hours long and scheduled less than two weeks prior to the deadline, despite repeated requests from NTEU for several months. As described above, management put forth its plan, NTEU suggested changes, and management ignored them – they bulled ahead with their pre-determined approach just as if the meeting never occurred. This is an ominous beginning indeed.

"DOE's Implementation Plan"

1. "Describe how the Department will conduct a baseline assessment of the current state of labor relations within the Department"

This is a proposal from management that should have been discussed with and agreed to by the Unions before being submitted by DOE as being "jointly developed by union representatives ..." This was neither jointly developed nor even discussed with the Union in a manner allowing a consensus. Moreover, during the one brief meeting held, NTEU suggested that any baseline assessment should start with how well the current CBA is

being implemented – especially insofar as it was predicated on “partnership” and includes two specific articles in the CBA that are clearly covered by Section 3(a)(i) in EO 13522, which states: “...adapting existing councils or committees if such groups exist...”

“The Department and its unions will collaborate on a baseline assessment of the current state of labor management relations ... ‘

The fact that management paternally calls labor “its unions” and boldly claims this to be a collaborative process is a clear indication of the current state of labor management relations. Despite management’s statements to the contrary, NTEU has not agreed to any of the five bulleted items listed. Moreover, the framing of issues as presented is clearly set within a pre-existing management agenda with scant regard to NTEU concerns. For instance, why is a “Supervisory Survey” needed to improve Flexi-place? Why not an employee survey? Or, why not simply expand the policy based on existing guidance from Congress and the Administration encouraging its increased use? Why not use existing available information? What is the reference to “enhanced pre-decisional communications and information sharing” about – there does not appear to be any at present, so how is it “enhanced”? Why are all of the “employee engagement topics” directed to things like “employee awareness of the work results expected of them” and not simply “employee satisfaction” defined in terms of what employees themselves identify as relevant? Or, why not “management awareness and implementation of the collaboration, information-sharing, and pre-decisional inclusion of the union expected of them”? The entire tone seems gratuitously calculated and misleading.

2. “Report the extent to which the Department has established labor-management forums, as set forth in section 3 (a) (i) of the Order, or may participate in the pilot projects described in section 4 of the Order.

Management’s response in the plan is blatantly untrue. Holding a single meeting in which management listened to nothing the Union had to say does not translate “created forums”. Some of the bulleted items below this heading were discussed briefly but no agreement was made accepting the approach.

3. “How will the Department work with the exclusive representatives of its employees through its labor-management forums to develop department, agency, or bargaining unit specific metrics to monitor ...”

“Some DOE organizations have a long history of Labor Management Partnership and desire to maintain that relationship which meets the intent of the creation of Labor Management Forums.” No such partnership has existed over the past 9 years at DOE Headquarters and management has not indicated a willingness to change this for the better. To the contrary, management unilaterally abrogated the existing contract clauses for partnership and has been resistant to reactivating them. The disingenuous approach management has exhibited on this basic document speaks for itself. It relied on the crutch of “no one union within the Department” to support its well entrenched attitude that they will do what they want despite the Unions and apparently despite Executive Order 13522.

The 3 bulleted items reported to be “initiatives the Department will pursue” are curious as NTEU has not agreed to any of them. To state “local labor unions are reviewing their

respective charters and will align them as much as possible to the role of the Labor Management Forums” is again untrue. If NTEU Chapter 213 and 228 were indeed reviewing our charters as stated it is not a quick and easy process to “align them” with the Labor Management Forum role, unless that meant implementing the existing Articles 14 and 14.A unilaterally abrogated by management. NTEU would never revise its charter(s) to align with something that is management’s plan without our input.

4. “Explain the Department’s plan for devoting sufficient resources to the implementation of the plan.”

“Duty time for bargaining unit employees and/or subject matter experts to attend Forum meetings, or perform work on collaborative efforts.”

This is a luke-warm approach at best. NTEU stands ready to discuss existing proposals which could be usefully supported with training and facilitation, as well as meeting support – not just attendance. The Department has proposed nothing substantive, and furthermore suggested minimal time involvement in a manner not expected to be highly productive of real results or outcomes which increase collaboration and change the climate and culture of the Department.

In summary, very little of the Department’s “Plan” is the result of a collaborative effort between management and the Unions. NTEU has reached out to management on numerous occasions since the one and only meeting to work together in a more collaborative manner. Each and every one of these has been rebuffed; if management genuinely wishes to comply with the Executive Order now would be a good time to start. This “Plan” submitted by management should be dismissed in its entirety as it is blatantly misrepresented as being a Labor-Management document.

From: Submitted on behalf of DOE's Labor Unions by Thomas E. Pansky, President, Professional Division, Laborers' International Union of North America, Local 335

Date of Submission: April 5, 2010

Dear National Council on Federal Labor-Management Relations -

Please find attached comments from the Department of Energy's (DOE) employee Unions on DOE's implementation plan.

We look forward to your response.

April 5, 2010

Dear National Council on Federal Labor-Management Relations –

Thank you very much for the chance to comment on the Department of Energy’s implementation plan. This is the first we’ve seen of it. It is unfortunate that the Department chose not to involve most of its Unions in creation of this plan, nor notify its

Unions of the comment period. Those Unions that were involved did not feel that they had substantive opportunity to influence the plan.

DOE's Unions are serious about living up to the spirit and intent of Executive Order 13522. Our leadership is involved and engaged. We recommend that the highest level of Departmental leadership become actively involved and lead DOE's efforts to fully engage all of the department's Unions in order to build successful Labor-Management Relations Forums – both department-wide and at the local levels of recognition.

The Background section correctly notes that there is no one union with recognition across the Department. However, there are Department-wide labor relations issues due to the fact that the Department retains control of many personnel authorities, and other authorities (e.g., A-76) that are administered Department-wide. This is the main reason for creation of a Department-wide Labor-Management Council in the late 1990's. The last meeting was in October 2003; last conference call occurred in July 2004. We've attached a copy of the original Charter for your information.

Without a Department-wide Council, the local unions have no opportunity for meaningful discussion or negotiation of departmental policies that impact the working conditions of their members.

We recommend reinvigorating the DOE Labor-Management Council in order to bring management and union leaders from across the Department together on critical items that span the agency.

Addressing the four items specified in Executive Order 13522:

1. The plan makes no attempt to assess the current state of labor relations within the Department. Instead it lists employee satisfaction and engagement as specific elements of a purported collaborative strategy that has not yet been discussed at the local level. No department-wide collaboration has occurred. Collaboration at individual sites is haphazard and based on local management whim.

We recommend the use of an independent third party to survey management and union leaders across the Department to arrive at a baseline assessment of the current state of labor relations, with follow up on a regular basis to gauge improvement.

2. Secretary of Energy Bill Richardson elected to bargain permissive subjects [5 USC 7106(b)(1)] in April 2000. This would not have happened absent a Department-wide Council. Senior leadership must be engaged for successful labor-management relations. Leaving collaboration up to each individual site will not gain the efficiencies contemplated nor make employees and their representatives feel fully engaged.

The plan asserts that local forums will evaluate the performance culture. No local discussions have yet addressed this management proposal. Local forums are, by and large, still managed in the classical, adversarial style as opposed to adopting interest-based bargaining techniques.

We recommend the Department consider participating in a pilot project as described in section 4 of the Executive Order. This would help labor and management identify priority efforts deserving of inclusion in their action plan.

3. Again, the plan asserts that the Department and its unions have agreed to focus on employee engagement and communication. Measurement is proposed through employee surveys. There is no discussion of measuring labor-management satisfaction.

Management has not collaborated with their unions on development of recent survey instruments, nor on analysis or communication of results or action plans. We do not see this changing unless/until there is some senior leadership. Publishing labor/management meeting summaries internally will make them available to only select Department employees and will not help with communication or collaboration Department-wide.

We recommend the creation of a Department-wide Labor-Management Relations Forum to guide development, training, and use of collaborative techniques. This would be an appropriate level to measure labor-management satisfaction.

4. We recommend that the Department provide training in labor-management relations techniques and practices that can help move us past traditional, adversarial relationships towards a more inclusive, interest-based relationship. The Department should also encourage and promote training for management and union leaders in the roles and responsibilities of their groups, including negotiations, grievance processing, and alternative forms of dispute resolution. Trained staff are better able to work together to meet mission objectives.

In closing, we feel that effective partnership should be an alliance wherein labor and management work together for the good of the Department and its employees. Both parties should work to identify and promote common goals for the good of all. This will generate real savings by aligning activities across the Department. It will also engage and empower employees by drawing them into managing the strategies that most directly affect their work. This is the real power of labor-management relations.

We look forward to working with you and the Department to better serve the public and accomplish our mission in the most effective manner possible. Thank you for the opportunity to provide our collective input.

Environmental Protection Agency

From: John J. O'Grady, President, AFGE Local 704

Date of Submission: March 24, 2010

EPA Plan of Action for EO 13522

(See attached file: EPA Plan of Action for EO 13522.pdf)

AFGE Council 238 March 4, 2010, Comments

(See attached file: AFGE Council 238 E-mail Dated March 4, 2010, on EPA's Plan.pdf)
"The phrase "good enough for government work," has been turned on its head, stolen and made into an epithet -- a catchphrase for mediocrity. During World War II, it was the standard for excellence in manufacturing

-- good enough to protect our servicemen in battle. Good enough to rebuild our allies when the war was over. Good enough to bring mankind to the moon and back safely."
OPM Director John Berry (Excellence in Government Conference, July 20, 2009)

March 4, 2010

Carolyn G. Davis, Director
Labor & Employee Relations
Room 1420C EPA East
Washington, DC 20460
Mail Code 3600M

Carolyn,

Re: Agency Response to the U.S. Office of Personnel Management per President Barack Obama's Executive Order 13522—Creating Labor-Management Forums to Improve Delivery of Government Services, December 9, 2009

I have prepared the following interim response to your March 2, 2010, e-mail requesting comments by close-of-business March 4, 2010. I don't feel that I have had adequate time to prepare more coherent and comprehensive comments .

Sec. 3(b)(i) Describe how the department or agency will conduct a baseline assessment of the current state of labor relations within the department or agency Executive Order Workgroup

In the Agency's "Plan of Action for Executive Order 13522" the Agency states the following:

- EPA will, in consultation with its union representatives develop a survey instrument(s) or assessment tool(s) that will evaluate the current state of labor relations. EPA has an operating National Partnership Council ("NPC").
- The Charter and Labor-Management Partnership Strategic Plan & Operational Guidance provide direction for assessing the effectiveness of labor relations . . Collaboratively, EPA will determine how the assessment will be administered

including communicating with respondents , determining the needs and the process for modifying or creating additional or supplemental surveys and analyzing and generating a report and plan of action for addressing the shortfalls and building on the strengths identified from the data received .

AFGE Council 238 Comments:

- With respect to the survey or assessment tool , there is nothing in place to either develop or implement the survey or assessment of labor -management relations. The National Partnership Council (“NPC”) was not developed in response to President Obama’s EO 13522. Rather, it was developed in response to President Clinton’s E.O 12871, signed October 1, 1993. nearly two decades ago.
- The April 3, 2003, Labor-Management Partnership Strategic Plan & Operational Guidance was developed to implement the NPC Charter that was in response to President Clinton’s E.O. 12871.
- There has not been “collaboration” to date between EPA management and the Unions to develop the Plan of Action for EO 13522.
- To the best of AFGE Council 238’s knowledge and belief, an E.O. workgroup does not exist.
- The Agency sent out a memorandum on February 3, 2010, asking for volunteers to serve on the EO workgroup. Although several union members volunteered , nothing further was done. The next correspondence from EPA HQ was The Plan of Action for Executive Order 13522, dated March 2, 2010.
- With respect to a request for volunteers for an EO workgroup , the notice should have been sent to the exclusive representative (e.g., Chuck Orzechoskie, President AFGE Council 238, Christina Balance for NTEU, etc.).

Sec. 3(b)(ii) Report the extent to which the department or agency has established labor-management forums as set forth in subsection (a)(i) of this section , or may participate in the pilot projects described in section 4 of this order .

AFGE Council 238 Comments:

- The NPC started on or about December 3, 1998, in response to President Clinton’s October 1, 1993, Executive Order 12871, not for President Obama’s Executive Order 13522.
- The Unions withdrew from the NPC on or about June 16, 2008 because although the intent of the NPC was to implement partnership between management and the Unions, that partnership never developed.
- The first NPC meeting since the Unions withdrew , was held on September 16, 2009, and the draft NPC Charter was tabled (not finalized) as a result of discussions on whether or not EPA would allow any negotiations under 5 U.S.C. §7106(b)(1).
- While EPA developed a full schedule of meetings for the NPC Executive Board , few meetings were actually held and there have not been any meetings since President Obama issued his Executive Order on December 9, 2009.
- As of March 4, 2010, there are not dates firmed up for any future meetings of the NPC Executive Board.

Sec. 3(b)(iii) Address how the department or agency will work with the exclusive representatives of its employees through its labor -management forums to develop department-, agency-, or bargaining unit -specific metrics to monitor improvements in areas such as labor -management satisfaction , productivity gains , cost savings , and other areas as identified by the relevant labor - management forums' participants.

AFGE Council 238 Comments:

- Section 3 of President Obama's EO (Implementation of Labor-Management Forums Throughout the Executive Branch), (a) states that: The head of each executive department or agency that is subject to the provisions of the Federal Service Labor-Management Relations Act (5 U.S.C. 7101 et seq.), or any other authority permitting employees of such department or agency to select an exclusive representative shall, to the extent permitted by law: (i) establish department- or agency-level labor-management forums by creating labor-management committees or councils at the levels of recognition and other appropriate levels agreed to by labor and management, or adapting existing councils or committees if such groups exist, to help identify problems and propose solutions to better serve the public and agency missions;
- AFGE Council 238 asserts that the appropriate level of recognition is not an all-encompassing National Partnership Council , but rather a Labor-Management Forum between EPA and each exclusive legal representative (e.g., AFGE Council 238 and EPA, National Treasury Employees Union and EPA , National Association of Government Employees and EPA, Engineers & Scientists of California and EPA, National Association of Independent Labor and EPA).

Sec. 3(b)(iv) Explain the department's or agency's plan for devoting sufficient resources to the implementation of the plan .

The Agency asserts that the "EPA will utilize its National Partnership Council and the EO Workgroup in implementing the requirements of the EO ."

AFGE Council 238 Comments:

- An E.O. workgroup does not exist.
- The National Partnership Council ("NPC") was not developed in response to President Obama's EO 13522. Rather, it was developed in response to President Clinton's E.O 12871, signed October 1, 1993. nearly two decades ago.
- AFGE Council 238 asserts that the appropriate level of recognition is not an all-encompassing National Partnership Council , but rather a Labor-Management Forum between EPA and each exclusive legal representative .

Fraternally,
Charles ("Chuck") Orzechoskie
President, AFGE Council 238

- EPA Labor Union Coalition
- Craig E. Hooks, Assistant Administrator, Office of Administration and Resources
- Management ("OARM")

- Susan B. Hazen, Principle Deputy Assistant Administrator, OARM
- Susan Kantrowitz, Acting Director, Office of Human Resources

March 24, 2010

National Council on Federal Labor-Management Relations

Re: Comments on Environmental Protection Agency's

Plan of Action for Executive Order 13522

Dear Members of the National Council on Federal Labor-Management Relations:

On behalf of the American Federation of Government Employees ("AFGE") National Council of EPA Locals #238 ("AFGE Council 238"), I am submitting comments on the U.S. Environmental Protection Agency's ("EPA") Plan of Action for Executive Order ("E.O.") 13522.

AFGE Council 238 and its affiliated locals constitute a union of highly dedicated employees working within the U.S. Environmental Protection Agency nationwide. Membership in the Council includes 14 locals nationwide including locals at EPA Headquarters, Research Triangle Park in North Carolina, all 10 Regional Offices, as well as the National Health & Environmental Effects Research Laboratory in Corvallis and Newport, OR, National Vehicle & Fuel Emissions Laboratory in Ann Arbor, MI, and the Robert S. Kerr Research Laboratory in Ada, OK. The Council represents just shy of 10,000 bargaining unit employees within EPA nationwide.

AFGE Council 238's overall comment is that EPA Plan is extremely weak in addressing the most crucial goal of the Executive Order which is that the Labor Management Forums are supposed to result in an improvement in the delivery of government services. EPA appears unwilling to allow the forum to accomplish the required end result of improving the delivery of government services. In addition, EPA does not appear to trust its labor partners, nor does it appear to want to relinquish its sole and exclusive control over decision-making. EPA's Plan appears to show that the Agency is unwilling to engage in the kind of relationship envisioned by the Executive Order. Without change, this plan will not fully utilize the ideas and information that only front-line employees and their Union representatives can identify.

Although "technically" the Unions were provided with an opportunity to comment and provide input into the plan, the reality is that the Unions were sent an e-mail on March 2nd and told to submit any comments by no later than close-of-business March 4th, giving less than 48 hours for comments. In spite of this short-time frame, AFGE Council 238 provided comments. However, there was no further discussion, nor any evidence that the Union's comments were incorporated into the Plan of Action that was submitted to OPM. Our March 4th comments are attached to this letter.

AFGE Council 238 is submitting additional comments below.

E.O. REQUIREMENT: Sec. 3(b)(i) Describe how the department or agency will conduct a baseline assessment of the current state of labor relations within the department or agency.

ADDITIONAL AFGE COUNCIL 238 COMMENTS:

Without determining the willingness of supervisors, managers, and Senior Executives to work with the Unions, how can the performance of an LMF be evaluated?

EPA's plan for conducting the baseline assessment required by Section 3.b.1 of the Executive Order relies solely on a survey instrument to conduct the assessment. While a survey instrument can be part of such an assessment, it would be a serious mistake to rely solely on a survey assessment to determine the current state of labor relations within EPA. EPA needs to use several tools to assess the current state of labor relations within EPA. A more comprehensive approach should be taken which includes surveys, interviews, and an independent assessment by an outside party chosen jointly by labor and management.

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E.O. REQUIREMENT: Sec. 3(b)(ii) Report the extent to which the department or agency has established labor-management forums as set forth in subsection (a)(i) of this section, or may participate in the pilot projects described in section 4 of this order.

ADDITIONAL AFGE COUNCIL 238 COMMENTS:

The Agency has not established Labor-Management Forums. It has simply repackaged the National Partnership Council established pursuant to President Clinton's Executive Order.

EPA's plan fails to include any assessment of the extent to which the labor management forums at EPA have been functional or effective and whether or not they have achieved concrete results that show that they are working. Without such an assessment, the Agency has failed to report the "extent" EPA forums meet the requirements of the Executive Order.

Please also note that the Agency's failure/refusal to budge on allowing bargaining over 5 U.S.C. §7106(b)(1) is the reason why the current "NPC Charter" was tabled.

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E.O. REQUIREMENT: Sec. 3(b)(iii) Address how the department or agency will work with the exclusive representatives of its employees through its labor-management forums to develop department-, agency-, or bargaining unit-specific metrics to monitor improvements in areas such as labor management satisfaction, productivity gains, cost savings, and other areas as identified by the relevant labor-management forums' participants.

ADDITIONAL AFGE COUNCIL 238 COMMENTS:

EPA's plan does not address productivity gains, cost savings, and other metrics which would assess the impact and scope of effect of improvements. EPA's plan focuses largely on measuring changes in the labor management relationship but ignores the broader scope of the Executive Order. The purpose of the Executive Order was to create forums that improve the delivery of government services. It is questionable whether or not EPA's plan accomplishes this purpose.

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E.O. REQUIREMENT: Sec. 3(b)(iv) Explain the department's or agency's plan for devoting sufficient resources to the implementation of the plan.

ADDITIONAL AFGE COUNCIL 238 COMMENTS:

The Agency has failed to address the far less than adequate staffing levels of its Labor & Employee Relations ("LER") offices all across the Agency, not to mention its woefully understaffed Headquarters LER.

In summary, AFGE Council 238 recommends that EPA's Plan of Action be sent back to the Agency with a clear directive to establish Labor-Management Forums based upon President Obama's Executive Order 13522 with each of the exclusive representatives (AFGE, ESC, NAGE, NAIL and NTEU). In addition, EPA should be directed to detail how it will establish Labor-Management Forums at each of its operating locations (each of the 10 Regional Offices, Headquarters, Research Triangle Park, laboratory locations, etc.).

If you have any questions, please contact me at your earliest convenience.

Fraternally yours,

/s/

Charles ("Chuck") Orzechoskie
President, AFGE Council 238

Telephone: (312) 886-2776
E-mail: Orzechoskie.Charles@epa.gov

Attachment: EPA Plan of Action for EO 13522
AFGE Council 238 March 4, 2010, Comments

Cc: John Gage, President
American Federation of Government Employees

Federal Energy Regulatory Commission

From: David Faerberg, General Counsel, AFGE Local 421

Date of Submission: March 23, 2010

On behalf of the Executive Board of AFGE Local 421 at the Federal Energy Regulatory Commission, attached are comments on the Federal Energy Regulatory Commission's Executive Order No. 13522 Implementation Plan:

Members of the Council,

AFGE Local 421, representing the bargaining unit employees of the Federal Energy Regulatory Commission (FERC) is compelled to submit comments on FERC's Executive Order 13522 implementation plan in order to clarify certain issues. While the implementation plan paints a very positive picture of current labor/management relations at FERC, our recent experience has been to the contrary. While we hope to be able to achieve many goals that will be positive for both the Commission and its employees, we do not believe that can be accomplished if there is a not an honest assessment of the state of labor relations.

At the outset, we believe that the union was not meaningfully consulted concerning the implementation plan. Despite the fact that the executive order was issued on December 9, 2009, the union was first contacted on March 1, 2010 about FERC's plan. In good faith, the union provided comments on the plan. Without consulting the union, the manager of labor relations sent out FERC's plan without further checking with the union and simply sent an e-mail indicating he incorporated the union's comments but removed things he considered divisive and adversarial. We do not believe it is in the spirit of partnership to unilaterally make changes without further consultation.

The plan also indicates that the Commission and the union will be looking at a number of issues in the future through the labor management forum. This is somewhat misleading given that AFGE Local 421 has been pursuing several issues of interest to its members and the bargaining unit employees for over a year and in a recent meeting with the Chairman, Executive Director, Chief of Staff and General Counsel many of these concerns were dismissed or discounted.

The implementation plan talks about further discussion of telework. At our recent meeting with the Chairman and other high level management, we indicated our concern that the Commission's Flexiplace program is not being implemented in a fair and equitable manner. A number of large offices representing hundreds of employees have capped participation in regular Flexiplace and are implementing assignment-based Flexiplace in a discriminatory manner. We asked for all eligible employees to be given the opportunity to participate in regular Flexiplace. Without any evidence or support, we were told that regular Flexiplace would not be opened up because the work of those offices would not get done. This assertion flies in the face of the facts. A number of FERC offices have successful Flexiplace programs without numerical restrictions and there has been no evidence that the work is not getting done. In a FERC Order issued March 19, 2010, the agency has mandated that companies begin to transition from paper tariffs to electronic tariffs (e-tariffs), starting April 1, 2010, with all companies coming into full compliance over the next six month period. This major shift in the method filings are processed at FERC further supports the immediate expansion of telework at FERC. In addition, FERC practice is not only contrary to OPM Director Berry's public statements that federal employees should be working on telework at least

once a week to reap its benefits but also OPM's recent five year strategic plan for the federal workforce stating the goal of a 50 percent increase in telework participation by FY 2011.

The union also raised some equal employment opportunity concerns at the recent meeting with the Chairman and other high ranking FERC officials. The union is concerned that women and minorities are underrepresented in senior pay grades and management according to Equal Employment Opportunity (EEO) reports. The union also believes that the EEO Director or Office should report directly to the Chairman to ensure fairness and impartiality rather than the current situation where the Executive Director, who is in charge of personnel, is also the EEO Director and oversees the EEO Advisor and her staff. We were given no indication that the Commission will depart from the current organizational structure.

Finally, at our meeting with FERC management, the union presented a detailed report concerning the FERC performance management program describing various problems including racial discrimination, age discrimination and bias in favor of supervisors and management. We were told that it is natural that an employee's performance declines after age 50. We were also told that managers receive double the amount of outstanding ratings as non-supervisory employees due to the fact that they were smarter and were made managers because they received outstanding performance appraisals in the first place. In response to the issue of racial discrimination, we were told that the Office of the General Counsel (OGC) was going to have a long-term goal of recruiting attorneys at certain law schools. We are also awaiting a response from the Executive Director concerning our findings on the performance management system. Our concern, however, is that recruitment at certain law schools does not address the issue of employees who may have been discriminated against in their performance ratings which can have immediate effects on promotions, bonuses, reductions in force, and other long term career implications. It is also disturbing that the Executive Director, who oversees both the performance management system and EEO issues, and who provided the union with the data we analyzed, has not previously spotted these worrisome trends.

AFGE Local 421 stands fully ready to diligently work with management in pursuit of common goals through the labor management forum. We believe that front line employees may have the best insight into issues that can lead FERC to cost savings, more efficient operations, greater use of technological innovations and increased employee morale and job satisfaction. However, we believe that it was important to have on the record our concern that our day-to-day dealings with management are not properly reflected in the FERC implementation plan. We have unfortunately experienced an attitude carried over from the Bush Administration that employees cannot be trusted and the union is obstructionist and the enemy. Only an honest assessment of the state of labor and management relations can allow all parties concerned to truly fulfill the goals of the executive order.

If you desire any further information, we would be happy to share it with you.

Sincerely,

The Executive Board of AFGE Local 421 at FERC

Department of Health and Human Services

From: Bill Jirles, President, AFGE Local 2923

Date of Submission: March 26, 2010

Regarding the Department of Health and Human Services (DHHS) plan:

- I've been an AFGE union local president for the past 3 years and I have never been contacted by the DHHS LMCC nor did I know one existed.
- It is unclear as to how the baseline numbers for the survey were determined – these seem low.
- They should take advantage of current DHHS and OPM surveys sent to employees, almost annually, regarding morale, work conditions, etc.
- All unions at DHHS should be surveyed – one survey per union.
- On p. 6 it mentions a “select” number of local/chapter reps and ELR officers who will be involved in the survey – sounds fixed to me.
- Goal #1 should include training for both unions and management. It should also include supervisory training.
- Goal #1 needs to have as a marker the numbers of grievances resolved prior to 3rd party intervention – this could also include reduction of FSIP proceedings.
- On p. 17 questions #'s 5 & 6 are biased and could lead to negative, inaccurate, skewed, or flawed conclusions.
- Was this survey developed and reviewed by professionals in the survey field and statisticians? It doesn't seem as if it were. If not, then it should be revised w/professional development.
- DHHS and the component where I work, NIH, have a terrible track record regarding accountability and no where does this document mention anything about management accountability. I know that there is one DHHS L-R official (Kenneth Brown) who came from NIH who had a number ULP's found against him or grievances related to his actions overturned yet he was “promoted” to a higher level. Interesting how DHHS and NIH seem to protect those LR personnel who are obstructionists and/or union-busters.

Thank you for the opportunity to comment. Feel free to contact me if you have questions or wish to discuss.

From: Robert D. Purcell, Director, Public Employee Department Laborers' International Union of N.A.

Date of Submission: March 29, 2010

Monday, March 29, 2010

On behalf of the Laborers' International Union of North America (LIUNA), I would like to submit the following comments about plans submitted to the National Council:

1. Department of Health and Human Services (DHHS) - LIUNA along with other unions, played a significant role in the development of the DHHS implementation plan. LIUNA was very pleased with the amount of time and attention DHHS committed to this process, as well as the level of engagement with the unions during most of the process.

However, LIUNA was disappointed that DHHS failed to present the final draft of the implementation plan to the unions until March 8 at 4:30pm, despite repeated requests from LIUNA for a draft of the final plan. The plans were due to the National Council the following day, and so DHHS did not give LIUNA sufficient time to review the final draft. The final plan did not incorporate consensus decisions on bargaining of 7106(b)(1) issues, nor on the critical issue of the DHHS Operating Divisions, as appropriate levels under the Executive Order, creating their own labor-management forums; instead, those parts of the DHHS Implementation Plan were solely the views of management, without real labor input. Since March 9, DHHS has committed to LIUNA that it will address these important issues through our existing labor-management forum. LIUNA is hopeful we can come to a consensus soon on these critical issues. The development of the Implementation Plan was clearly a learning experience for all involved, and we believe that DHHS submitted theirs in good faith in spite of the defects raised above, therefore we encourage the National Council to approve the DHHS Implementation Plan.

2. Department of Interior (DOI) - LIUNA does not have national consultation rights with DOI. However, LIUNA represents several hundred workers at several 001 agencies, including NPS and FWS. LIUNA was never informed that DOI was drafting its implementation plan, despite requests through NPS about the status of the department-level plan. The DOI plan does not indicate how it chose the unions included in the plan. LIUNA also objects to the DOI's failure to require DOI agencies, such as NPS and FWS, to implement labor management forums at the agency or bargaining-unit level. We recommend that the National Council refer the Implementation Plan submission back to the DOI for consultation with their collective bargaining partners and resubmission to the Council for approval within an appropriate time frame.

3. Indian Health Service - LIUNA represents over 9,000 bargaining unit employees at IHS. In spite of the fact that IHS previously had a Labor Management Partnership, it submitted no Implementation Plan. Despite repeated requests to IHS to implement a labor-management forum at the agency level, IHS refuses to do so. IHS claims that it cannot implement an agency wide labor-management forum until the national contract with the union is completed. That process could take months, or even years. With the express intent of the Executive Order encouraging Labor-Management Forums at all appropriate levels, LIUNA asks the National Council to inform IHS that nothing in the Executive Order prohibits IHS from forming its own labor management forum, and in fact, that artificial barriers are contrary to the spirit of the Executive Order. Respectfully submitted by Robert D. Purcell, Director Public Employee Dept.

Department of Homeland Security

From: David L. Wright, President, AFGE Local 918

Date of Submission: March 22, 2010

DHS has excluded the responsibility for protection of U. S. Critical Infrastructure in the DHS Organizational Overview of the DHS Implementation Plan:

“On November 25, 2002, the Homeland Security Act was signed into law merging 22 Federal organizations into the newly created Department of Homeland Security (DHS). DHS is the lead Federal agency for mitigating vulnerabilities, threats and incidents from terrorism. Its responsibilities include preparing for, responding to, and recovering from natural disasters, stemming drug flows, thwarting fraudulent immigration, strengthening border security, promoting the free flow of commerce and maintaining civil rights”.

Responsibilities of the National Protection and Programs Directorate (NPPD) include the mission of Federal Protective Service: immediate response and protection of federal properties, federal employees and visitors to those properties from threats of accidents, natural threats, crime and terrorism.

NPPD is also responsible for protection of non –federal critical infrastructure in the U.S.

Thank you for the opportunity for input.

From: Thomas Reinecke, President, AFGE Local 1202

Date of Submission: March 22, 2010

DHS-FEMA has had an ongoing Labor Management Partnership Council since the original Executive Order by President Clinton. The reason it has continued its existence is that it has provided positive benefits to the agency.

In reviewing the posted DHS Implementation Plan for Executive Order 13522, I have the following comment:

Section 1. (c) (4) Indicates that “Members of the DHS forum shall serve without compensation (and) ...may be allowed travel expenses.” This appears to indicate that employees responding to an EO may not be compensated for time or expenses in carrying out government work. I believe that this is in violation of Title V.

From: T.J. Bonner, President, National Border Patrol Council

Date of Submission: March 29, 2010

March 29, 2010

To the National Council on Federal Labor-Management Relations:

In accordance with your solicitation for public comments regarding agency implementation plans for carrying out Executive Order 13522, the National Border Patrol Council of the American Federation of Government Employees, AFL-CIO (NBPC) hereby submits the following comments regarding the Department of Homeland Security's implementation plan.

Initially, the NBPC expresses deep concern about its lack of involvement in the crafting of the Department of Homeland Security (DHS) implementation plan and the manner in which it is now being required to provide its comments. Section 3(b) of Executive Order 13522 provides that "[e]ach head of an executive department or agency in which there exists one or more exclusive representatives shall, in consultation with union representatives, prepare and submit for approval, within 90 days of the date of this order, a written implementation plan to the Council." The Federal Labor Relations Authority has certified the NBPC as the exclusive representative of "all nonprofessional employees employed by U.S. Customs and Border Protection in the Office of Border Patrol who are assigned to Border Patrol Sectors."¹ Notwithstanding the foregoing, the NBPC was never contacted by DHS about its implementation plan nor consulted during the preparation thereof.² Requiring a key participant to submit post-development comments with the general public instead of directly consulting with them beforehand is hardly conducive to the establishment of a collaborative relationship based on mutual respect.

Even more troubling is the uneven representation on the DHS Labor-Management Forum by the three labor organizations that hold exclusive recognition status within the agency. The NBPC represents approximately 18,000 bargaining unit employees, which is nearly eight percent of the Department's total workforce, and approximately one-third of its unionized workforce. Despite this, the NBPC is only being offered one seat on the DHS Labor-Management Forum compared to six apiece for the American Federation of Government Employees and the National Treasury Employees Union, even though all three organizations represent roughly the same number of bargaining unit employees.

¹ See Case No. WA-RP-04-0067, dated January 11, 2006.

² The NBPC received a final draft of the implementation plan from the American Federation of Government Employees on March 2, 2010, seeking comments within two days. This hardly qualifies as consultation with DHS.

The NBPC is also concerned about the following specific provisions contained in the DHS implementation plan:

The narrow focus in Section 1.(b)(1) of the DHS implementation plan on proactively identifying problems and crafting solutions to better serve DHS customers and the Departments mission ignores the equally important objective of advancing employee interests outlined in Section 2.(b)(v) of the Executive Order. It is impossible to attain the former goals without ensuring that the latter interests are met. Additionally, the phrase DHS customers is confusing and misleading, and should be changed to the public consistent with Section 3.(a)(i) of the Executive Order. All of the aforementioned concerns also apply to the language in Section 3.(a) of the DHS implementation plan.

The prohibition on compensation for work on the DHS Forum in Section 1.(c)(4) of the DHS implementation plan needs to be clarified to ensure that all time spent in such endeavors by union representatives who are agency employees is classified as official time and therefore compensable.

To avoid unnecessary disputes about how often the DHS Forum will hold meetings, Section 1.(c)(6) of the DHS implementation plan should establish a minimum number and frequency, with additional meetings scheduled as deemed necessary by the Forum members. The NBPC suggests quarterly meetings.

The limitation in Section 3.(c) of the DHS implementation plan to management-initiated changes to conditions of employment is overly restrictive and inconsistent with Section 3.(a)(ii) of the Executive Order, and should be expanded to include all proposed changes to conditions of employment regardless of which party initiates them.

The absence of guidance within the DHS implementation plan concerning bargaining over permissive topics of bargaining set forth in 5 U.S.C. ' 7106(b)(1) is also problematic, and will lead to needless confusion and disputes. This deficiency also needs to be corrected.

Respectfully,

T.J. Bonner

President

National Border Patrol Council

AFGE, AFL-CIO

P.O. Box 678

Campo, CA 91906

cc: The Honorable Janet Napolitano, Secretary of the Department of Homeland Security

Department of the Interior

From: Robert D. Purcell, Director, Public Employee Department Laborers' International Union of N.A.

Date of Submission: March 29, 2010

Monday, March 29, 2010

On behalf of the Laborers' International Union of North America (LIUNA), I would like to submit the following comments about plans submitted to the National Council:

1. Department of Health and Human Services (DHHS) - LIUNA along with other unions, played a significant role in the development of the DHHS implementation plan. LIUNA was very pleased with the amount of time and attention DHHS committed to this process, as well as the level of engagement with the unions during most of the process.

However, LIUNA was disappointed that DHHS failed to present the final draft of the implementation plan to the unions until March 8 at 4:30pm, despite repeated requests from LIUNA for a draft of the final plan. The plans were due to the National Council the following day, and so DHHS did not give LIUNA sufficient time to review the final draft. The final plan did not incorporate consensus decisions on bargaining of 7106(b)(1) issues, nor on the critical issue of the DHHS Operating Divisions, as appropriate levels under the Executive Order, creating their own labor-management forums; instead, those parts of the DHHS Implementation Plan were solely the views of management, without real labor input. Since March 9, DHHS has committed to LIUNA that it will address these important issues through our existing labor-management forum. LIUNA is hopeful we can come to a consensus soon on these critical issues. The development of the Implementation Plan was clearly a learning experience for all involved, and we believe that DHHS submitted theirs in good faith in spite of the defects raised above, therefore we encourage the National Council to approve the DHHS Implementation Plan.

2. Department of Interior (DOI) - LIUNA does not have national consultation rights with DOL. However, LIUNA represents several hundred workers at several 001 agencies, including NPS and FWS. LIUNA was never informed that 001 was drafting its implementation plan, despite requests through NPS about the status of the department-level plan. The 001 plan does not indicate how it chose the unions included in the plan. LIUNA also objects to the DOI's failure to require DOI agencies, such as NPS and FWS, to implement labor management forums at the agency or bargaining-unit level. We recommend that the National Council refer

the Implementation Plan submission back to the 001 for consultation with their collective bargaining partners and resubmission to the Council for approval within an appropriate time frame.

3. Indian Health Service -LIUNA represents over 9,000 bargaining unit employees at IHS. In spite of the fact that IHS previously had a Labor Management Partnership, it submitted no Implementation Plan. Despite repeated requests to IHS to implement a labor-management forum at the agency level, IHS refuses to do so. IHS claims that it cannot implement an agency wide labor-management forum until the national contract with the union is completed. That process could take months, or even years. With the express intent of the Executive Order encouraging Labor-Management Forums at all appropriate levels, LIUNA asks the National Council to inform IHS that nothing in the Executive Order prohibits IHS from forming its own labor management forum, and in fact, that artificial barriers are contrary to the spirit of the Executive Order. Respectfully submitted by Robert D. Purcell, Director Public Employee Dept.

Department of Justice

From: Carl Goldman, Executive Director, AFSCME Council 26

Date of Submission: March 26, 2010

Attached are comments from Council 26 of the American Federation of State, County and Municiple Employees concerning the Department of Justice implementation plan for executive order 13522.

March 26, 2010

To: Members of the National Council on Federal Labor Management Relations

From: Carl Goldman, Executive Director, AFSCME Council 26

Re: Department of Justice Implementation (DOJ) Plan for Executive Order 13522

Council 26 of the American Federation of State, County and Municipal Employees is a coalition of nineteen local labor unions representing federal employees who are, mostly, located in the Washington, DC Metropolitan area.

In the Department of Justice Council 26 is the exclusive representative for employees in the Justice Management Division, the Office of Justice Programs, the Office on Violence Against Women, the Litigating Divisions/Office of the Solicitor General and the U.S. Parole Commission. Local Unions handle most of the day-to-day representational issues with assistance from Council 26 and AFSCME International.

I am submitting these comments in regards to concerns AFSCME has with the Department of Justice's implementation plan for executive order 13522.

Labor-Management Forums/Pilot Projects

DOJ's arguments against allowing any of its component agencies to participate in pilot projects negotiating permissive subjects ring hollow. Unions in DOJ agencies currently participate in a full range of labor relations and collective bargaining activities without any adverse affect on the Department's mission. Those employees deemed as national security are not included in their respective bargaining units. To claim that bargaining over permissive subjects would somehow impede the law enforcement and national security mission of DOJ is reminiscent of the specious arguments used by the Bush Administration for issuing an Executive Order that eliminated the collective bargaining rights for employees in the U.S. Attorneys Offices and other sections of the Department.

If DOJ worked with its Unions, I am sure we could together identify agencies to participate in the pilot project.

Labor-Management Forum Efforts in the Litigating Division-Office of the Solicitor General/Justice Management Division/Office on Violence Against Women/U.S. Parole Commission (referred to in DOJ submission as LIT-SG/JMD/OVW/USPC)

DOJ reports of two meetings in 2009 between Labor and Employee Relations representatives with AFSCME Locals that it would like to institutionalize as labor management forums. It is AFSCME's strong belief that the primary management representatives on the forums should be senior political appointees, not labor relations specialists. In order to "improve the productivity and effectiveness of the Federal Government (E.O. 13522 Section 1)" it is critical that the primary management participants have responsibility for the policies and programs that represent the DOJ's core mission. Labor relations specialists could serve more effectively in an advisory capacity.

Further, DOJ recommends holding labor-management forums only twice a year. This is inadequate to accomplish the many important tasks assigned to the forums by the Executive Order. AFSCME believes that the forum should meet no less than bi-monthly.

Labor-Management Relations Survey Preliminary Draft (Attachment A)

DOJ submission states that it is developing a survey for employees to help establish a baseline assessment of current labor relations. Unfortunately, many of the questions contained in the Department's draft survey are totally inappropriate and would invite the filing of unfair labor practice charges by the Union. It violates the Federal Services Labor-Management Relations Statute for an agency to ask employees if they are

"...satisfied with my union representation," or

"If I have problem with something in my immediate workplace I would first talk to

- My supervisor
- My union representative
- A colleague
- All of the above"

These but two of the most egregious questions asked in DOJ's draft survey. The survey needs to be scrapped and a new one developed with union input. For these reasons I ask you to reject these components of the DOJ implementation plan and direct it to develop a new plan in conjunction with its Unions.

Department of Labor

From: Sarah J. Starrett, AFGE Local 12 AVP for SOL

Date of Submission: March 26, 2010

I am concerned that the DOL-Local 12 Plan does not acknowledge that the parties are currently at impasse in negotiations over ground rules; have made little or no progress after a full year of negotiations; and have made little or no progress on improving the core hours, making DOL a more family-friendly place to work, or on rolling back many of the anti-worker initiatives left in place by the Bush administration. Local 12 is extremely frustrated with the current impasse in negotiations and the lack of progress on improving the core hours.

Other problems identified by Local 12:

- The Secretary of Labor preaches about a “Family Friendly Workplace” in public but refuses to return us to the “Family Friendly Workplace” contractually agreed upon by Local 12 with Moderate Republican Secretary of Labor Lynn Martin.
- The Secretary of Labor praises President Obama’s signing of the Lily Ledbetter Equal Pay Act while her managers oppose DOL women employees’ seeking “Equal Pay for Equal Work.”
- The Secretary of Labor continues to defy President Obama’s executive order calling for full disclosure in Information Requests by refusing to divulge those Senior Labor Department managers who have their relatives on the DOL Payroll.
- The Secretary of Labor praises her Open Government Initiative, including Blogs and Twitter, yet her managers bring disciplinary actions against employees who question the costs and value of these initiatives.

From: Danielle Gibbs, AFGE Local 12 AVP for OSHA

Date of Submission: March 28, 2010

The DOL-Local 12 Plan ignores the fact that both parties are currently at impasse in negotiation over GROUND RULES!! Absolutely NO progress has been made whatsoever for over a year regardless of the many efforts the union has made to work with management. For example, the simple task such as changing employees' core hours back to what they were for 25 years prior to the previous Administration have been used by Secretary Solis' subordinates as "future negotiating ammunition or tactic." A task that would help show DOL employees that DOL's administration is serious about carrying out our President and First

Lady's vision to promote flexible work environments with the federal government leading by example. Secretary Solis promotes "giving workers a voice" and Local 12 has attempted on many occasions to communicate with the Secretary about what is important to DOL employees yet we continue to NOT BE HEARD. This is just one reason of many regarding why I urge the Council to disapprove the DOL-Local 12 Plan.

From: Daniel L. Hays, Local 12 Steward – ETA

Date of Submission: March 29, 2010

To whom it may concern:

I am troubled that the DOL-Local 12 Plan does not acknowledge that the parties are currently at impasse in negotiations over ground rules; have made little or no progress after a full year of negotiations; and have made little or no progress on improving the core hours, use of flexiplace, access to professional development, making DOL a more family-friendly place to work, or on rolling back many of the anti-worker initiatives left in place by the Bush administration. Local 12 is extremely frustrated with the current impasse in negotiations and the lack of progress on improving the core hours.

Other problems identified by Local 12:

- * The Secretary of Labor preaches about a "Family Friendly Workplace" in public but refuses to return us to the "Family Friendly Workplace" contractually agreed upon by Local 12 with Moderate Republican Secretary of Labor Lynn Martin.
- * The Secretary of Labor praises President Obama's signing of the Lily Ledbetter Equal Pay Act while her managers oppose DOL women employees' seeking "Equal Pay for Equal Work."
- * The Secretary of Labor continues to defy President Obama's executive order calling for full disclosure in Information Requests by refusing to divulge those Senior Labor Department managers who have their relatives on the DOL Payroll.
- * The Secretary of Labor praises her Open Government Initiative, including Blogs and Twitter, yet her managers bring disciplinary actions against employees who question the costs and value of these initiatives.

I urge the Council to DISAPPROVE the DOL-Local 12 plan for these reasons.

National Aeronautics and Space Association

From: Lee Stone, IFPTE

Date of Submission: March 24, 2010

Dear Sir/Madam:

NASA's Unions objects to both the proposed plan and the process by which the plan was developed.

We will be providing a formal statement/response soon.

From: Lee Stone, IFPTE

Date of Submission: April 6, 2010

April 6th, 2010

Mr. John Berry Director,
Office of Personnel Management
1900 E Street NW, Washington, DC 20415

Mr. Peter Orszag
Director, Office of Management and Budget
725 17th Street NW, Washington, DC 20503

Dear Directors Berry and Orszag:

President Obama's Executive Order (EO) 13522 – Creating Labor-Management Forums to Improve Delivery of Government Services - requires all federal Agencies to "make a **good-faith attempt to resolve issues** (*emphasis added*) concerning proposed changes in conditions of employment ... through discussions in its labor-management forums." In his Memorandum to Heads of Departments and Agencies on January 29, 2010, John Berry noted that Labor-Management Forums (LMFs) "can improve the working relationship between employees and the employer and support changes needed to enable agencies to deliver the highest quality services and products to the public."

IFPTE would like to convey our concern that NASA's proposed LMF Implementation Plan submitted on March 9, 2010 unilaterally by management will not enable NASA to meet the intent of the EO. Specifically, the Plan is not responsive to two key recommended guiding principles of the National Council on Federal Labor-Management Relations, i.e., "Labor-management forums should operate with a clear charter that grants the parties broad authority to

develop solutions jointly (*emphasis added*) on issues that fall outside the scope of bargaining, and Labor-management forums should be led by relevant decision makers and supported by appropriate staff." NASA management's proposed LMF Implementation Plan would not fulfill the above obligations as it explicitly precludes "resolving issues" or "developing solutions jointly" at the Agency-level LMF, as required by the EO. Furthermore, the process they used to develop the LMF implementation plan was deeply flawed and reflects an ongoing institutional resistance even to the spirit of President Obama's Executive Order.

A recurring lack of "good faith" is the biggest problem that Labor faces when dealing with NASA management. NASA leaders have habit of refusing to fully delegate their authority to those charged with negotiations and discussions with NASA's Unions, while also refusing to meet directly with Union representatives. This leads to hours of wasted time in meaningless discussions that do not lead to resolution. The process by which NASA engaged its Unions in discussions related to implementation of the President Obama's EO is a classic case. After the EO was announced, NASA and its Unions held two meetings to discuss implementation:

The first meeting was a telecon on January 29th led by the Director of the Office of Human Capital Management and her staff. The Unions asked that any future meeting addressing the LMF implementation plan include those senior leaders whose participation will be crucial to make the Agency Forum a successful vehicle for more effective and efficient labor relations. That request was never honored. The second meeting was a face-to-face meeting at NASA HQ on February 18th. IFPTE flew in representatives from across the country and provided an explicit set of proposals. AFGE had two senior representatives call in. Management however sent only lower level Human Resources (HR) officials who were not empowered to make decisions. At that meeting, both IFPTE and AFGE made it clear that Labor's primary concern was to establish a process whereby binding written Memoranda of Agreement (MoA) would be signed when/if consensus was reached. While establishing binding MoAs in no way compels management to sign onto any specific MoA that they disagree with, the Union's proposal would force the LMF discussions to be in good faith as any agreements reached would be meaningfully recorded via an MoA. The second Union proposal was that any LMF impasse would be appealable to the Administrator who would be required to consult with the IFPTE and AFGE national presidents in a sincere effort to break the impasse, but would remain fully empowered to render a final decision thus preserving all management rights. The HR officials sent to discuss these key issues with Labor were not empowered to make decisions for NASA about the issues discussed. Thus, ironically, the discussions about developing an LMF Implementation Plan that requires management to engage in good faith discussions within its LMFs were never in good faith.

On March 2nd, NASA HR notified the Unions that senior NASA leadership had accepted many of our suggested minor editorial changes, but not the substantive

proposals dealing with binding agreements and appealability. Management simply rejected both of Labor's key proposals. IFPTE and AFGE were invited to meet to discuss issues further on March 8th with HR officials who were not empowered to alter NASA leadership's prior decisions in any way. Both of NASA's federal labor Unions therefore opted not to waste their time with another pointless meeting. On March 7th, instead, IFPTE sent a memo directly to the NASA Administrator outlining our concerns and offering a new counterproposal. We did not receive the courtesy of a reply to this memo. On March 8th, the head of HR simply re-iterated management's March 2nd unilateral assertions.

On March 9th, NASA management forwarded their unilateral plan that makes all LMF actions merely advisory, thus preventing the LMFs from ever actually resolving anything even when agreement is reached. NASA's Labor Unions have no need to engage in a process by which management representatives on the LMF get to pre-filter our recommendations before putting them forward to NASA's final decision makers. We are fully empowered to send any such recommendations forward directly unfiltered under current rules. The EO explicitly requires the establishment of LMFs that can resolve matters and develop solutions jointly through good-faith discussions. NASA management's draft LMF implementation plan would have exactly the opposite effect; it would prevent the LMF from ever resolving any issue and it is by-design in bad faith. The Deputy Administrator would participate in the LMF but would not be empowered at LMF meetings to ever enter into binding agreements with NASA's Unions. She would instead simply relay LMF recommendations to some leadership team that may or may not make a decision later. This proposed approach is thus contrary to the spirit and explicit direction in the EO.

Above and beyond their flawed draft LMF implementation plan, since the EO was issued, NASA management has repeatedly failed to provide requested pre-decisional information and has systematically excluded its Unions from important pre-decisional policy discussions/deliberations related to many pending dramatic changes at the Agency that will have major workforce impacts. Furthermore, NASA management is not only failing to abide by the EO, with its repeated failures this year to consult on certain critical policies, it is at times even failing to live up to its minimum legal obligations under existing federal labor-relations statutes within U.S.C. 5. **IFPTE respectfully urges you to oppose NASA management's unilaterally proposed LMF Implementation Plan as it provides no added value to the taxpayer. We ask that the national Labor-Management Council reject NASA management's current draft Implementation Plan and direct them to re-engage with its Unions to work on developing a better, mutually agreeable plan to be resubmitted by April 30th, in time for certification by the May 8th deadline.**

Sincerely,

/s/

Lee Stone
President
NASA Council of IFPTE locals
IFPTE, AFL-CIO

cc.

Greg Junemann, IFPTE President
Charles Bolden, NASA Administrator

Railroad Retirement Board

From: James Glover, Executive Vice President of Council 57

Date of Submission: March 27, 2010

Attached are the comments regarding E.O.13522. They were written by James Glover, Executive Vice President of Council 57. My work email address is Glove@rrb.gov

These are the comments from AFGE Council 57, the exclusive representative of bargaining unit employees at the Railroad Retirement Board. It is in reference to a plan submitted by the Railroad Retirement Board.

The three Member Board that runs the Agency tasked the Director of Administration to meet with the Union and write a joint plan to comply with the terms of E.O. 13522 by the March 9, 2010 deadline.

One of the first subjects of discussion was drafting an agreement for how the Labor Management Forum Council will operate and some ground rules for meetings, etc. We began discussions with the Director of Administration who is the Union's contact representing the Board Members. We were told that after we reached agreement, it would be reviewed and approved by the full Executive Board and Board Members.

We agreed on a strategy of using focus groups to ask average employees input on labor relations at the Agency, and soliciting input from Union officials and top management officials.

The Agency and the Union agreed on the make up of a Labor-Management Forum Council under this Executive Order. Three of the members will represent the AFGE. There will be one representative from Human Resources, and one representative from Legal. The Senior Executive Officer will represent the Executive Committee and the Board. The Board Members empowered the Senior Executive Officer with authority under this Executive Order to make Agency-wide binding agreements with the Union. The lack of a management official with authority to make binding agreements for management (since a Board reorganization was made in 1995) was one of the biggest impediments to progress during the previous Labor-Management Partnership under President Clinton. However, the first document Management has given the Union for an operating procedure for the Agency Labor Relations Committee contradicts what Management promised in the document they sent you on March 9, 2010. Management's proposed Memorandum of Understanding contains Item 1... "The Chief (of) Labor Management Relations will serve as Technical Advisor to the

Council for Management.” This is a management position on the Council not mentioned in the original proposal.

Item 4. States,” In addition to the Council members, each Board Member may participate directly, or appoint a representative to attend Council meetings. “This adds new positions and clearly undermines the Board’s agreement to empower the Senior Executive Officer. `

Unresolved issues from the last ‘Partnership’ meetings were expansion of the RRB variable work week with a pilot in several field service offices, reinstatement of a subsidized transit benefit for employees, expanding the work at home program, among other issues. One of the new issues to be discussed is using Union feedback in the Labor Relations rating element of high level executives.

The Agency and Union agreed we can use the Labor Management Forum to focus on its Strategic goals. We found very little metrics included in the plan submitted by Management.

Management and the Union agreed to the immediate implementation of pre-decisional involvement of the Union in workplace challenges and problem solving, before any further changes in the workplace are proposed by management.

We jointly believe greater Agency resources should be used for training both Management representatives and Union officials in how to implement the E.O. 13522. The Agency and Union believe funding of both separate training and joint training will benefit the Agency and lead to a more cooperative relationship.

The Agency in the past has had several excellent joint training sessions for Union officials and Management officials in Labor Relations techniques which have led to a more cooperative relationship between the Union and Management in some areas. But we find that a small number of high level officials are uncooperative with the Union.

Both labor and management agreed to disseminate information to their respective groups regarding issues discussed at the Labor Management Forum Council meetings and results achieved so all employees can be informed of progress in the labor management relations within the Agency.

While the Union team was preparing final modifications to the management draft, the working draft was given to the full Executive Committee for review. The E.C. did not like what was previously agreed to, and stripped out virtually all of the language the Union had submitted. When the Union saw the changes and realized that most of their language was gone, the Union advised that it did not agree, requested that all language indicating Union agreement be deleted from the document, and advised that the Union would submit its own document to the National Labor Management Council.

After the Union had prepared its own document, it was contacted by Mr. Valiulis only 4 workdays before the deadline for submission, and was told that the three Board Members did not want separate submissions.

The previous management draft before the Executive Committee changes was resurrected, and a new attempt to send a joint submission began. Two days later, the Union presented management's document with some revisions to the Director of Administration who agreed to the language the Union submitted, but suggested some moving of paragraphs and sentences around to make the document read better. Several procedural paragraphs were added by joint agreement. Only Board member agreement was needed at this point, so the Union agreed to meet to look at the final minor changes the day before the submission date of March 9.

The morning of the meeting, the Union received a call from a Board Member's assistant advising that their office had removed Union proposed language from the agreement.

When we met with the Director of Administration later that morning of March 8, 2010, to review the final document, the Union had to uncover on its own each of the numerous Union paragraphs that were deleted from the document. The Director of Administration never advised us that any language had been removed. Additional word changes were made in sections that had never been identified as being a problem before.

The Union objected to the many changes that the Board Members Offices had made, and advised that they would rather submit their own document than accept this altered document. Since the Agency-Union Agreement advises that the Union is not determined to agree to anything that does not contain their signatures, the Union waited for further contact about what the Agency Management was going to do about this situation.

After making no further contact, Management electronically submitted the Board altered document the Union clearly did not agree to on March 8. Management falsely represented to the National Labor Management Council that the Union had agreed to this document and that it was a joint submission.

Because meeting with management in the forum of the new Executive Order may benefit our bargaining unit, we have agreed to Management's request to start preliminary meetings with the 3 prescribed Management members of the Agency Labor-Management Council.

Social Security Administration

From: Richard Couture, President, AFGE Local 1164, AFL-CIO

Date of Submission: March 19, 2010

To Whom It May Concern:

The biggest concern I have regarding SSA's proposed plan is its highly centralized nature. The plan states that SSA would seek to create one Agency-wide forum with all unions and two Deputy-level forums for ODAR and (conditioned on AFGE's participation) Operations, but there are no provisions for regional or local forums to discuss issues on SSA's frontlines.

SSA stated that it has approximately 65,000 employees across the country. SSA did not state that there are over 1,200 SSA installations nationwide, including field offices, hearings offices, teleservice centers, program service centers, quality review offices, regional offices, etc. In addition to local management, most of these local installations are also under regional or "subcomponent" management. Needless to say, there will be issues that arise from office to office, region to region, component to component, which are unique. Further, any decisions made centrally will have to be implemented at lower levels of the agency, and will impact employees and the public differently in each region and location. Therefore, effective implementation of the EO would require, in an agency the size of SSA, localized participation in forums. SSA's centralized plan will not suffice, as lower-level local and regional concerns will not easily be heard.

In the same light, there should also be forums with each union within SSA. Each union represents different bargaining units with varying concerns and interests. In addition to the centralized Agency-wide and Deputy-level forums, there should be forums between SSA (at all levels) and each union (at all levels). This way, each union could have their concerns heard individually in their own forums, as well as together with the other unions in the centralized forums.

SSA's proposed plan doesn't do enough to promote participation. If these new forums are to work in such a large organization, they need to be numerous and tailored to the many constituencies and realities within SSA. Local, regional, and union-specific forums must also be created.

Thank you for your time and consideration on this matter.

From: Ralph Dejuliis, Social Security Administration

Date of Submission: March 22, 2010

http://www.lmrcouncil.gov/plans/AgencyPlans/SSA/SSA-3-9-2010_508.pdf

Good Afternoon!

SSA has not engaged in a meaningful dialogue with the Union since 2000. This new plan does not change anything.

The Union is NOT the guilty party in this lack of dialogue. Despite SSA Commissioner Astrue telling me “....to work quickly and collegially with OLMER”

From: Jimmy Botts, President, Local 3984

Date of Submission: March 22, 2010

I am employed by the Social Security Administration. Also, I am the elected President of Local 3984. We represent close to 90% of all Field office employees in the state of Kentucky. It was an exciting day when the Executive Order was issued by the President. The Commissioner of Social Security sent an email to all employees stating that he wished to adhere to this Order soon afterward. Unfortunately, this has been the only contact with me or other employees about this Executive Order since that day in December. I read the agency submitted plan on the website only after notification from my Union superiors that it was posted. I immediately sent the link out to all my fellow Kentucky employees. My agency leaders have not yet sent me or other employees a copy of this plan. My agency did not solicit my input. When I asked about following the principles of the Order on our current day to day operations, I was told that "management was not going to implement any of the order until we get final instructions from above." The point I wish to make is that lower level Union reps and managers must be proactively involved in this Executive Order or the American public will never reap the full benefits of this worthy endeavor. It appears my Agency leaders want to keep this bottled up at the national level and not let this filter down regionally and locally. I have served as the leader of Kentucky employees for close to four years and served as a leader at the regional level for one year and we have asked to meet with our management counterparts, yet we are consistently told that we will not meet with you. This still occurs even after the signing of this Order. In summary, please make sure these goals and metrics are implemented at all levels and not just nationally and please work quickly on implementing these procedures. The sooner we can establish these forums, the better off the American public and employees will be. Thanks for listening.

From: John Gage, President AFGE

Date of Submission: March 29, 2010

**AFGE Council 224 COMMENTS ON THE SSA IMPLEMENTATION PLAN
CREATING LABOR-MANAGEMENT FORUMS**

SSA claims in their report that they consulted with its labor unions to establish the implementation plan for creating labor-management forums, yet did nothing to address the concerns that AFGE has about the lack of equal-weighted representation among the four unions that represent SSA. We simply do not agree that AFGE should be relegated to the same number of representatives when we overwhelmingly represent the majority of SSA employees. Our Forums should not be under-represented simply because SSA administration makes a mandate without consulting the AFGE.

Instead, the Agency rushed ahead without addressing AFGE's concerns in this process, revealing their intent to continue to give lip service to the Presidential Order, without making substantive changes in how they collaborate/deal with the People's representative as mandated by our President.

This is counter to section 1.Policy, of the Presidential Order dated 12/9/09. The SSA administration has failed to "...discuss workplace challenges and problems with labor, and endeavor to develop solutions jointly, rather than advise union representatives of predetermined solutions to problems...".

The SSA administration set all the ground rules, dismissed our concerns, and showed contempt for AFGE. Recently the Commissioner alluded to this situation in documenting the Agency's progress in fulfilling the Presidential Order. The SSA Commissioner publically blamed the AFGE for not providing a representative for this initial meeting, which was not truthful or fair. This account was published widely in FedSmith and other publications.

In SSA's plan for its Forum, SSA states that John Gage, President of the American Federation of Government Employees excused himself from the meeting. On March 8, 2010, Mr. Gage sent a letter to SSA pointing out that AFGE represented over 96% of SSA's employees and has recognition with the Commissioner. None of the other Unions invited to the meeting have recognition above the ODAR level at SSA. AFGE hold recognition at the Commissioner level. He also wanted the Commissioner and the Deputy Commissioners to attend this very important meeting.

Mr. Gage wanted the first meeting to be with high level officials and felt that a meeting with labor relations staff instead of the Commissioner and the Deputy Commissioners, violated the substance, spirit and intent of President Obama's Executive Order. For your information, Mr. Gage did not excuse himself from the SSA meeting. He sent Ward Morrow, from the AFGE General Counsel Office, to

the initial meeting at SSA Headquarters, but SSA would not allow Mr. Morrow to enter the meeting room. Mr. Morrow left since he was denied access to the meeting.

I am the President of the union for AFGE Council 224 and I have the following additional comments on SSA's Forum Plan:

Many different Labor Unions represent employees at SSA and at different levels of the organization. AFGE is one of those Union which has a consolidated Union consisting of six independent certified Labor Unions with recognition at the Commissioner level. We are one of the consolidated Labor Union for bargaining unit employees of approximately 1200 of the Office of Quality Performance at SSA. We object to the decision to exclude OQP Council 224, the AFGE consolidated union represents far more SSA employees than those who are represented by the other three unions (NTEU, NFFE and IFPTE), combined.

These unions are represented at a level lower level of the SSA organization, and yet they are included; while AFGE Council 224, which is represented at the Deputy Commissioner level, is not. These unions will have their own forum, while AFGE Council 224 will not. SSA does not want a Forum with this Labor Union but wants to involve the management side only. This is a travesty, especially because OQP management was put in charge of the organizing the Baseline survey, while their Union Council was excluded from participation in the survey or Forum.

In fact, the employees we represent in Office of Quality Performance are the quality inspectors to determine the health of all SSA program and performs special studies and demonstrations. The employees in my Council have expert knowledge in all SSA programs. However, SSA wants to exclude this Labor Union Council from the Forum.

Our Council 224 staff are most familiar with sampling and survey techniques, and our union and survey expertise is needed to ensure the employee survey is a scientific and impartial gathering of facts. We are concerned that a wholly management-produced survey will be designed to elicit answers that management wants, rather than honestly querying employees and receiving honest and unvarnished feedback. AFGE Council 224 should be involved in designing the survey and in monitoring the responses and preparing a final report, to ensure that certain data is not excluded or hidden.

We believe the Agency should also design a survey to query the union representatives who work in the trenches on a daily basis, to elicit their concerns and suggestions, and to provide a baseline of union representative information on labor relations. This information would be compared in each annual survey to see if labor relations have improved, from the folks who see the reality of the situation in their day to day work.

In addition to a Forum for my Council, I want the AFGE General Committee to be a pilot of b (1) bargaining which would also include all of the consolidated Labor Councils referenced above, including AFGE Council 224.

The SSA Commissioner should take full responsibility for his failure to make the culture change that is required by the Presidential Order. This false start by the Commissioner illustrates why there is so much distrust by AFGE Officials toward our current Commissioner. We want to be a full participant, equal in strength with management, and to change the future and how we work together as required by President Obama Executive order.

Earl Tucker
President
AFGE Council 224

From: Witold Skwierczynski, President, AFGE Council 220

Date of Submission: March 29, 2010

MEMORANDUM

DATE: March 29, 2009

TO: National Council of Federal Labor-Management Relations

FROM: Witold Skwierczynski
President, AFGE Council 220

SUBJECT: Comments on SSA Implementation Plan

As President of AFGE Council 220, I represent 28,000 Social Security Administration (SSA) bargaining unit employees who work in 1300 field offices and 35 teleservice centers. I am also a member of the AFGE/SSA General Committee which represents 50,000 bargaining unit employees in SSA.

Executive Order 13522 issued by President Obama on 12/09/09 requires each government agency to submit a proposed implementation plan for the establishment of labor-management forums. The National Council of Federal Labor-Relations has posted proposed implementation plans from agencies and has solicited interested parties to comment on such proposed implementation plans. This constitutes comments on behalf of employees who work in social Security Administration field offices and teleservice centers.

SSA's forums implementation proposal is an extremely flawed document which exhibits a fundamental misunderstanding of E.O. 13522. Initially SSA states that

there are four unions in SSA with AFGE representing the majority of SSA employees. What SSA fails to point out is that AFGE represents approximately 50,000 bargaining unit employees while the other 3 unions represent a total of approximately 2000 bargaining unit employees. In fact, NFFE represents some bargaining unit employees in one SSA hearings office in Cincinnati Ohio or less than 30 employees. Thus, AFGE represents an overwhelming majority of over 96% of bargaining unit SSA employees.

SSA also asserts that it recognizes two management associations – the National Council of Social Security Management Associations and the Federal Managers Association. However, these are not unions with any exclusive recognition. Rather these are professional organizations that are not covered by Section 1 or 3 of Executive Order 13522 or by 5 USC 71. The purpose of Executive Order 13522 is to establish forums to allow employees and their union representatives to engage in pre-decisional involvement in all workplace matters to the fullest extent practicable without regard to whether such matters are negotiable pursuant to 5 USC 7106. Since management associations are not unions such organizations are not permitted such pre-decisional involvement envisioned by the E.O. In addition, many management association members are management office managers who make management decisions. The role of such decision makers is to meet with employees through their unions in local level forums and to collaborate pre-decisionally on the decisions that they plan to make on behalf of SSA. Their role is certainly not to serve as a 3rd entity on national or component level forums. Such service would be a conflict of interest.

Although SSA addresses some of the requirements of the E.O. in its 2nd introductory paragraph, SSA neglects to emphasize the requirement of the parties to collaborate pre-decisionally.

SSA's proposed plan further appears to limit collaborative decision making to promotion of SSA's goals delineated in its Strategic Plan and ensuring that the goals of the plan are met. The Executive Order provides that pre-decisional involvement without regard to management's rights as specified in statute is required in all management decisions – not just decisions regarding the Strategic Plan. In fact, the E.O. would require pre-decisional involvement on the content of the Strategic Plan and any decision to establish agency goals within the strategic plan. SSA's references to open dialogue and input indicate that the Agency is not committed to pre-decisional collaboration on all Agency decisions.

SSA presents a distorted picture of its unilateral decision to conduct a two day meeting to “engage in pre-decisional involvement and consultation” regarding the development of SSA's forums implementation plan. SSA invited three members of each of the four unions that represent employees in SSA to this meeting. AFGE was unilaterally limited to 3 participants despite the fact that it represents over 96% of SSA bargaining unit employees. Thus, the representatives of unions that represent less than 4% of SSA employees were invited to send 9

representatives to the meeting while AFGE was invited to send 3 representatives to the meeting.

AFGE objected to both SSA's decision to allow an unrepresentative number of AFGE officials to this meeting and the Agency's decision to send lower level officials to the meeting. Neither the Commissioner, the Acting Principal Deputy Commissioner, the Deputy Commissioner for Operations, the Deputy Commissioner for Office of Disability Adjudication and Review (ODAR), the Deputy Commissioner for Systems, the Deputy Commissioner for Disability and Income Security Review, the Deputy Commissioner for Communications, the Deputy Commissioner for Legislation and Congressional Affairs, the Deputy Commissioner for Policy, the Chief Strategic Officer, the Chief Quality Officer, the Chief Information Officer or the SSA General Council attended the 2 day meeting. SSA sent three Deputy Commissioners for small components: Human Resources, Office of Quality Performance and Budget, Management and Finance. The bulk of the management participants were from the Office of Human Resources and its Office of Labor-Management and Employee Relations. SSA sent lower level officials to this introductory meeting and refused to allow AFGE to send a proportionate number of participants. Thus, SSA both insulted AFGE and failed to send its top officials to the introductory forums meeting. This is in contrast to the Partnership experience during the Clinton Administration where SSA consistently participated at the highest levels.

SSA also erroneously stated that they have not received AFGE's suggestions regarding a forums implementation plan. On December 23, 2009 AFGE gave SSA an extensive proposal for the implementation of forums in SSA. This 14 page proposal detailed specific proposals regarding the number of participants, the levels of forums, frequency of meetings, training of participants, selection of forums issues and dispute resolution processes. This proposal was provided to SSA in conjunction with its contract negotiations with AFGE. The text can be found in Article 41 of the union proposals listed in <http://www.mycontract2009.org>.

In addition, AFGE President Gage sent a representative of his staff, Ward Morrow, to attend as an observer the two day SSA unilaterally scheduled meetings with the other unions and the two management associations to discuss the SSA proposed forum implementation plan. Mr. Morrow was denied entrance to the meeting site by SSA Office of Human resources representatives.

SSA's implementation plan states that SSA will conduct a baseline survey to assess the current status of labor relations. The plan states that SSA's Office of Quality Performance will conduct the survey. In view of the obvious horrific state of labor relations in SSA, the survey should be conducted by a disinterested 3rd party with a collaborative effort to develop the appropriate questions. The assessment should concentrate on the nature of the current dialogue and communication between the parties at all levels. The current collective bargaining agreement specifies 4 levels of interaction in mid-term bargaining.

Any survey should be sent to representatives at all 4 levels. Questions should be addressed regarding the current methods of communications at all 4 levels. The survey should address the following issues: how do the parties currently communicate regarding proposed changes, is information willingly exchanged, are the parties receptive to mid-term bargaining, is correspondence answered expeditiously and in a straightforward manner, is either party bypassed, are the parties held accountable if they either obstruct effective communications or engage in mistreatment and/or disrespect for employees, do the parties conduct periodic meetings at all levels of the organization to engage in pre-decisional dialogue.

SSA's implementation plan proposes forums only at the national level and 2 component levels. Forums should be established at all Agency decision making levels. Traditionally AFGE has had four such levels delineated by contract: national, component level, regional and local installation level. SSA has created this decision making structure to mirror the decision making process. Forums are needed at all levels in order to fulfill the E.O. mandate to engage in pre-decision making collaboration regarding all management decisions.

SSA's plan provides for participation for each of the four unions and the two management associations on the national level forum despite the fact that only AFGE has recognition at that level. Proportional representation for AFGE would require 72 AFGE representatives in the forum with 1 representative for each of the other 3 unions. Such participation is impracticable. Thus, only AFGE and SSA top level management should participate on the national forum. The other unions should confine their forum activities in ODAR since none of these unions represents any employees outside of the ODAR component. The Commissioner and those Deputy Commissioners who either supervise large numbers of employees or are responsible for making key decisions should serve on the national forum. This forum should meet monthly with provisions for mid month communications due to the large number of SSA initiatives that require ongoing decision making and, consequently, ongoing pre-decisional collaboration. The other unions should be excluded from this forum since they represent few employees and all the employees that such unions represent are in the ODAR component only.

In ODAR AFGE represents the majority of the ODAR employees and, therefore, should have a forum independent of the other 3 unions. Meetings should be monthly with the ability to communicate in between meetings. The large number of issues requires frequent meetings in order for the union to have adequate pre-decisional engagement. The judges (IFPTE) and attorneys (NTEU) have unique concerns and should, therefore, engage in separate forums to address those concerns. NFFE represents one office and should have a forum with SSA at the Cincinnati office level. This is the essential organizing principle that worked effectively in partnership councils during the Clinton administration.

Other component level forums including Operations should be established at each Deputy Commissioner level. AFGE represents 100% of the bargaining unit employees supervised by each Deputy Commissioner. The principal leaders on both sides should participate. Meetings should be at a minimum of monthly due to the number of decisions that require pre-decisional involvement.

Each component with regional and local structures should establish forums at both the regional and local levels. Many decisions are made at each level so monthly meetings should be held with the principal representatives participating in such meetings. Provisions should exist for effective communications between meetings due to the extensive decision making responsibilities that exist at each level. Frequent meetings and communications are required in order to fulfill the mandates of the E.O.

AFGE agrees that forums may create standing committees assigned to collaborate on specific projects and initiatives. Such committees may meet more frequently and could even meet on an ongoing basis. Committees will report to the forum which established them regarding progress and for further direction.

AFGE agrees that time spent in forum activities by bargaining unit employees should not be considered official time. Additionally, AFGE agrees that SSA will finance all travel and per diem expenses related to forum activities.

SSA does not address the timely exchange of information with unions as part of the process for effective forum meetings. However, the parties need a commitment that SSA will provide appropriate information expeditiously to all forum participants so that they can fulfill the mandates of the Executive Order. Such information exchange should be monitored and measured as part of the forums assessment process.

Finally it is important to point out that SSA has taken no action to modify its behavior since the signing of the forums E.O. by President Obama on December 9, 2009. SSA has continued to implement thousands of changes at all levels of the organization since December 9, 2009 without any attempts to elicit pre-decisional collaboration from AFGE. On the contrary SSA has implemented many significant changes with so-called "courtesy" notices stating that a decision has been made and SSA has determined that no bargaining obligation exists. In addition, many other decisions have been made to change work procedures and practices without any notice whatsoever. The union has attempted to notify SSA about such changes when it learns of them and has requested negotiations and/or briefings prior to implementation. SSA has declined in all cases.

SSA has also taken no action to improve information exchanges with the union since the December 9, 2009 issuance of the Executive Order. Two labor-management meetings at the national level have taken place since 12/9/09 and the union has requested a variety of information from SSA. SSA has responded slowly or not at all. Many requests have been denied.

It is obvious from SSA's proposal that the Agency has not proposed a serious plan for implementation of forums in SSA. Their proposal denigrates AFGE's status as the 96% representative of all bargaining unit employees in SSA. Their limited forums proposal would make it impossible for the union to engage in pre-decisional collaboration regarding decisions the Agency makes at thousands of SSA levels. Their proposal limits collaboration to implementing the Agency Strategic Plan. In addition, SSA's conduct since the issuance of the Executive Order indicates that the Agency has no desire to adhere to its provisions.

AFGE Council 220 supports naming SSA as a pilot for mandatory (b) (1) bargaining pursuant to Section 4 of the Executive Order.

AFGE Council 220 also urges the LMR Council to order SSA to scrap their proposed implementation plan and meet with AFGE to collaborate on a new plan which requires SSA to establish forums at all decision making levels that involve actual decision makers collaborating pre-decisionally with AFGE on all management decisions. Such meetings should be of sufficient frequency to enable the union to effectively participate pre-decisionally in the process.

Finally, due to the fractured relationship between the parties, extensive training is necessary for SSA-AFGE forum participants so that the parties can relearn the best methodologies for collaborative decision making.

Department of Transportation

From: Peter F. Gimbrere, Esq., NATCA LR

Date of Submission: March 29, 2010

National Council on Labor Management
Relations
Via email to Imrcouncil@opm.gov

Dear Members of the National Council,

As both the largest exclusive representative of employees in the Department of Transportation within the largest Operating Administration, the National Air Traffic Controllers Association (NATCA) is disappointed with the Federal Aviation Administration's (FAA) portion of the Department's Implementation Plan for Executive Order 13522 (E.O.)

Up to this point, NATCA has had no involvement in the development of the FAA's portion of the Department's Plan. While we have been invited to participate in an April 6, 2010 meeting with the Department regarding the Plan, we believe that it would have been more beneficial for such a meeting to have taken place in advance of the filing of the Implementation Plan, rather than significantly after it was due.

NATCA has had some meetings with the Federal Aviation Administration regarding the Executive Order, the success of the Clinton era partnership initiative, and the successful level of pre-decisional involvement between the Parties even prior to the Clinton era. However these meetings have revealed a high level of disfunctionality - not within the relationship between the Parties, but within Agency management itself. More specifically, NATCA was approached by two separate contractors working with two different stovepipes within FAA to establish a national level labor-management forum: one was hired by the Air Traffic Organization; the other by FAA Labor Relations. NATCA appreciates that Administrator Babbitt quickly resolved this conflict within his Agency. However, the delay in beginning the process of a true exchange on creating a national forum has limited NATCA's involvement to say the least.

The Department's plan states that the "FAA has hired a consultant who is facilitating meetings with representatives from all FAA labor Unions and FAA management agency wide to obtain their perspective on the current LR climate and the requirements of the E.O." To date, NATCA has provided considerable input regarding the current LR climate, however NATCA has not received any feedback on our suggestions, nor have we participated in the development of the FAA plan itself. Furthermore, NATCA has also made proposals regarding our

participation in light of the B.O., but we have not received any substantive response to those proposals.

The Department's Plan goes on to state that in November 2009, FAAI e-convened the Labor Relations Council, now renamed the 'LR Executive Steering Committee.' The Steering Committee is presently meeting regularly to discuss the requirements of the E.O. and its impact on FAA. In mid-April, the Steering Committee intends to host a joint labor-management meeting where labor and management will brainstorm options for labor relations forums at FAA and discuss how to proceed with the requirements under the E.O." What appears hidden in this statement is the fact that the Steering Committee is strictly a management council - there is no place for labor within it. Therefore, NATCA can only conclude that the FAA has decided to operate in a "go it alone" mode, and will only bring NATCA and the other Unions into the process well after it has made critical decisions about the implementation of the E.O. We believe that this is not the appropriate approach; that it does not meet the goals and expectations of the E.O. itself; and most importantly, that it does not comport with the Administrator's expectations of bilateral and full engagement by the Parties in the process.

While a number of the Agency plans specifically state that an Operating Administration will establish an L-R Forum or that there is a permanent forum already established, the FAA plan is both vague in its statements and notorious in its avoidance of stating that a "formal Forum shall be established." Only the "Management-Only" Steering Committee is established within the FAA's plan, nothing more. This limited approach is of great concern to NATCA as it can be construed as an improper interpretation of the intent and spirit of the Executive Order.

Additionally, NATCA requests that the National Forum Chairs require that the DOT and FAA Implementation Plans include the guiding principles that the National Council already has adopted. National Council Co-Chair and OPM Director John Berry described the guiding principles at the March 9, 2010 Labor-Management Conference. The principles include, for example, the requirement that agency officials on a labor management council have the authority to decide the matters that are before the council the authority to reach across the table, shake hands and say, "done deal." The only real power that the Executive Order expressly gives to John Berry, as well as his co-chair, is authority to approve or disapprove agency Implementation Plans.

During the 60-day approval period that is now before us, John Berry has the power to require what the National Council already have said should be done. He can require it as a condition of approval of agency Implementation Plans. NATCA recommends that the Co-Chairs of the National Council should inform each agency that its Implementation Plan is approved (provided other requirements are met) subject to express inclusion of the guiding principles already adopted by the National Council. The Co-Chairs should state that the agency may consider

its Implementation Plan approved upon submission of a revised Plan that expressly includes the full text of the guiding principles adopted by the National Council.

NATCA appreciates that fact that Administrator Babbitt and his supporting political appointees have worked hard to break down the entrenched, prevailing anti-union attitude among the career FAA managers both in the Air Traffic Organization and in Labor Relations. We also appreciate the Administrator's ongoing commitment to breaking down some of the FAA's stovepipes that continue to create bureaucratic delays in resolving issues between the Agency and NATCA. NATCA is beginning to participate in Next Gen projects. Before Administrator Babbitt was appointed, the Agency not only refused to allow Union involvement in the development, design, and testing of the newest air traffic technologies, but the Agency also fervently ignored our input on implementation as well, leading to significant cost overruns and substantial delays. We are hopeful that such a climate has receded to the background and can be stamped out completely through full application of the Executive Order's language on pre-decisional involvement. In that regard, it is our belief that delays and cost overruns on technology implementation under the previous administration must be considered as part of any baseline for measuring the success of NATCA's participation under the Obama Executive Order.

Finally, we are disappointed that the Implementation Plan does not specifically volunteer the FAA for a Pilot Program. NATCA believes that both the Secretary and the Administrator are in favor of a Pilot Program for the FAA, and recommend that the FAA and NATCA participate in the Pilot Program.

Thank you for your consideration.

From: Edward J. Elder, Esq. Regional Counsel, NAGE/SEIU

Date of Submission: April 5, 2010

Dear Sir or Ms.

Please find attached comments from the National Association of Government Employees. The comments are submitted for the plan posted by the Department of Transportation. Ms. Lightfoot-Walker, NAGE Deputy General Counsel, had previously requested permission to submit comments on this plan today.

Please do not hesitate to contact me if you have any questions or problems accessing the attached document. Thank you.

April 5, 2010

To: John Berry and Jeff Zients, Co Chairs,
National Council on Labor-Management Relations

From: David Holway, President
National Association of Government Employees

Subject: Comments on the Implementation Plan Submitted by the
Department of Transportation.

The National Association of Government Employees, SEIU Local 5000 (NAGE) hereby submits the following comments on the implementation plan submitted by the Department of Transportation (DoT) pursuant to Executive Order 13522. NAGE has gathered comments from its members and officers and presents them on their behalf.

The implementation plan states that the Director of the VOLPE National Transportation Systems Center (VOLPE) and the President of NAGE Local R1-195 currently meet on a weekly basis in compliance with their collective bargaining agreement. However, the plan states that in the future the VOLPE Director may appoint one of his Deputy Associate Administrators to represent him at these meetings.

NAGE favors the VOLPE Director's direct participation in labor-management partnership meetings. NAGE's communications with the VOLPE Director indicate that he also wishes to continue his direct participation in these meetings

Department of Veterans Affairs

From: Barbara J. Hample, Department of Veterans Affairs

Date of Submission: March 18, 2010

NFFE Local 225 Fargo VA
Reviewed with great interest and appreciate.

Would like to see TRUE pre decisional involvement at all levels.

Pilot programs with involvement at inception not after the fact.

No LMR in partnership they are to adversarial
Teams should include union, center director and HR director. No LMR (don't believe in partnership)

From: Oscar L. Williams Jr., 2nd Executive Vice President, National VA Council #53

Date of Submission: March 22, 2010

Metrics should not be based upon the numbers of ULPs or grievances. Grievances arise by actions of the Department's management officials. Employee have the right to address management actions by filing a grievance under the negotiated procedure in Title 5. If VA plans not to take actions against bargaining unit employees during these labor forums, then I agree to include them. However this is not going to occur. ULPs and Union grievances occur when management officials violate the collective bargaining agreements. The AES has not been approved by labor on a yearly basis. VA is not providing correct information the LMR Council. I serve as Chair of the AFGE/NAVC Mid-Term Bargaining Committee and have copies of letter in which NVAC did not approve the survey for our bargaining unit employees.

From: Mary-Jean Burke, Department of Veterans Affairs

Date of Submission: March 22, 2010

I think I would like to see (5) areas measured in the metrics both for all agencies and VA—Nationally VA-NCOD could help develop these measures.

Employee development (to include areas of perception for transparency/accountability) Improvement and measuring Communication between the parties (labor /management).

Measuring the degree in which we resolving disputes effectively and efficiently between the parties.

Project improvement initiatives for VA- At least 40 —The pilot project listed by VHA at north Chicago is required by law- Therefore, not really sure how much weight I would note.

I would rather see a VA workgroup work on “what” constitutes an adverse impact for RNs in VHA. In regards to setting or dies-hooking from a compressed work schedules— A workgroup of (5) labor and managers that the parties could use as a evidence finders prior to sending it for litigation or a USH 7422 decision.

From: Mary-Jean Burke, Department of Veterans Affairs

Date of Submission: March 22, 2010

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From: Ron Carter, President AFGE Local 1216

Date of Submission: March 23, 2010

As President of Local 1216 San Francisco VA Medical Center I find the Executive Order very weak and a slap in the face of all AFGE Bargaining Unit Employees. I could not find enough "will" "must" and "shall". I found a lot of "may" "could" "should" and "can" in the EX/Order. There is no teeth in the document, so why have it? WE have very mean managers/supervisors who hold anti-union animus sympathies and don't care a hoot about the President and his executive order. In fact I heard one service managers meet for lunch turning the lunch into a anti Obama bash with all the colorful name calling. So, where there are no teeth in the EX/Order why should Management even pretend to agree that Hard Working Bargaining Unit employees should have collective bargaining rights?

The White House needs to come to San Francisco witness our struggle.

What does San Francisco VA Managers do? They go out and hire a \$460.00 a day Labor Relations Manager to fight against our hard working AFGE Bargaining Unit Employees and the Union. Then when Labor ask the Agency to hire more Medical Clerks due to shortages Management reason for not hiring the clerks is "no" money. Labor Relations at SF VAMC is aware there are only two union people in the Union Office (They want give the Union President his own office but allows a JUST RETIRED BUSINESS GM-14 TO HAVE ONE OF THE LARGEST OFFICES SPACES IN THE FACILITY)

We had high hopes for the President when he took office. These hopes have not been realized after 15 months and we continue to get screwed by management. Hard Working AFGE Bargaining Unit Employees cannot pay rent or eat on hope alone and they cannot compete against job favoritism, cronyism and pre-selections for jobs.

From: Sheila K. W. Elliott, Pharm.D., Vice-President - AFGE Local 2328

Date of Submission: March 24, 2010

1. At one point, I was encouraged that we might really have an opportunity to develop the type of partnerships that we experienced during the Clinton administration. However, I am not so optimistic because the same folk who "railroaded right over unions" are still in place and "calling the shots".
2. There **absolutely must be a change in culture** at the Department of Veterans Affairs and most of the other agencies. I do not see any method in this implementation plan by which such a cultural change will fostered.

Metrics are certainly not the answer when so many employees have “survey fatigue” at completing surveys with no tangible results.

3. Labor **and** management must collect any tracking data (ULPs grievances, EEO complaints, etc) in a cooperative manner to make sure that the data provided is indeed accurate.
4. Further, the relationships with the upper management of the unions **MUST** be with upper management of The Departments. We need decision-makers at the table. I believe that the very delegation of this opportunity downward will continue to have a detrimental effect on any “relationship”.

Thanks for the opportunity to provide input.

From: Edward J. Elder, Esq., Regional Counsel, NAGE/SEIU

Date of Submission: March 29, 2010

March 29, 2010

To: John Berry and Jeff Zients, Co Chairs,
National Council on Labor-Management Relations

From: David Holway, President
National Association of Government Employees

Subject: Comments on the Implementation Plan Submitted by the
Department of Veterans Affairs.

The National Association of Government Employees, SEIU Local 5000 (NAGE) hereby submits the following comments on the implementation plan submitted by the Department of Veterans Affairs (DVA) pursuant to Executive Order 13522. NAGE has gathered these comments from its members and officers and presents them on their behalf.

- The plan does not appear to include workers in the Consolidated Mail Outpatient Pharmacy (CMOP) or Veteran’s Canteen Service. In cases where such workers are represented they should be included in partnership.
- Language in the plan should be strengthened to require the formation of partnership councils at the local and intermediate levels as well as the national level.

- Information gathered on the status of labor management relations must include labor's perspective. Such an assessment should be made at least annually.
- Baseline assessments and metrics should focus on both successful and less successful partnership councils. Metrics must include data on attempts at informal resolution, both successful and unsuccessful. This speaks volumes about local labor-management relationships.
- The DVA national partnership council has not revised its founding documents in response to E.O. 13522. The national partnership continues to operate under rules set forth after the Bush administration rescinded President Clinton's Executive Order. The existing DVA partnership agreements should be revised to reflect the new Executive Order.
- The DVA must ensure the transparency of the methods used to assess or measure labor management relations and the union's ability to verify this information.

Comments on the Implementation Plan Submitted by the Department of Veterans Affairs, continued.

- Communication with representatives at the facility and VISN levels have been reported as inconsistent. Standards, measurements, or methods should be promoted to ensure that relevant and timely communications are maintained across the DVA.
- Copies of letters sent to facility directors requesting that they establish labor-management forums immediately should be sent to local union presidents as well.
- A description of the means by which the DVA will enforce implementation of this plan is crucial.