



UNDER SECRETARY OF DEFENSE
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WASHINGTON, D.C. 20301-4000

PERSONNEL AND
READINESS

MAR 10 2004

The Honorable Henry Waxman
U.S. House of Representatives
Washington, D.C. 20510

Dear Representative Waxman:

Thank you for the letter of February 25, 2004, that you and six other Members of Congress signed concerning the development of a labor relations system for the National Security Personnel System (NSPS).

I appreciate the serious attention that you and your colleagues are giving to this matter and to your concerns about our initial options. I also appreciate your understanding that our options of February 6 are intended as a discussion document. They are a serious, although neither a formal nor final effort, to define a new model of collective bargaining that we believe would better serve employees, managers, and unions in meeting the mission of the Department.

Your concerns raise fundamental issues that I would like to address. As to motivation, these changes are not aimed at making it more difficult to join unions or to eliminate collective bargaining.

We fully agree we must respect the rights of employee to join unions and bargain collectively as we seek to improve that process. You state that DoD cannot waive chapter 71 of title 5, United States Code and that any modifications must be consistent with that chapter of the law. However, the law explicitly allows the Department, with the Office of Personnel Management, to set aside chapter 71 to the extent otherwise specified in the law. The rest of the law provides for two fundamental changes. First, the law establishes a system of national level bargaining under Section 9902(g) of title 5, United States Code. Second, the law calls for a "collaborative issue-based system to labor management relations" under Section 9902(m) of title 5.

Within those sections, the law provides significant flexibility and certain requirements. Under the law, the determination of whether to bargain at the national level is not reviewable and the outcome of those discussions is subject to review only to the extent provided for in a system of collective bargaining developed with unions and the Office of Personnel Management and mediated by the Federal Mediation and



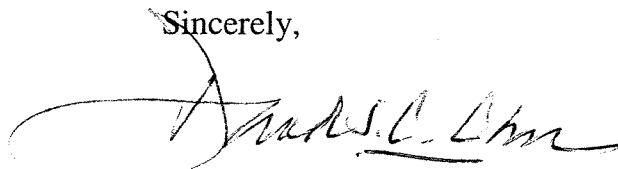
Conciliation Service where there are disagreements. As the law also provides, Congress will be advised where labor and management disagree on the development of a system, which permits the Department flexibility to address the "unique role that the Department's civilian workforce plays in supporting the Department's national security mission." Thus, it is the law, and not the Department's initial options, that provide the broad flexibility to implement a new model of collective bargaining.

We are keenly aware that the Congress has given this Department not only a large grant of flexibility but of trust in developing a more effective and efficient system of labor relations. On January 22, we offered to the unions an open-ended discussion of a broad range of issues. The unions declined that offer and asked only for a written exchange of views--hence our document of February 6th. On February 26 and 27, we sought to have a full and interactive dialogue on our ideas and their ideas.

We know that we are looking for big changes, under the law, in the labor management relations system. We will work diligently, openly, and honestly as we move forward to design this very important system. We look forward to continuing a dialogue with the unions and other stakeholders, as this process may require some considerable experience with a new model of collective bargaining before there is complete understanding and acceptance of these changes. We believe that the current model of collective bargaining – fragmented among nearly 1,400 local bargaining units and mired in procedural detail – diverts national security resources and focus. The Congress heard those concerns and agreed to the law we now seek to implement in a fair and responsible manner. We will continue the dialogue with the unions, with the aim of reaching a formal proposal by late April.

Thank you again for the opportunity to respond to your concerns. A similar letter has been sent to the others who signed the incoming letter.

Sincerely,



David S. C. Chu