



NATIONAL COUNCIL OF SSA FIELD OPERATIONS LOCALS
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO
Representing over 25,000 Social Security Employees working in over 1,300 field installations and 36 teleservice centers across the nation, Puerto Rico and Pacific Islands

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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.

Cc: