

With Civilian Workforce Shrinking, Reps. Urge Compliance with Workforce Management Laws

Washington, D.C. -- Congressman Maurice Hinchey (D-NY) and 130 other U.S. House members this week sent a letter to Secretary of Defense Leon Panetta questioning the Pentagon's management of its workforce. The letter is critical of the Department of Defense's (DoD) efficiency initiative, which aims to reduce costs by scaling back the civilian workforce to 2010 levels. The members argue that the initiative is increasing reliance on more expensive private contractors, which are being called in to handle the work previously done by DoD civilian employees. To address this problem, the members urged Secretary Panetta to ensure compliance with longstanding workforce management laws and provisions of the 2012 National Defense Authorization Act (NDAA), which would lessen the use of contractors.

"These gimmicks are causing mass layoffs of civilian employees, but they aren't actually saving any money," said Hinchey. "Because of the arbitrary standards set by the Pentagon, civilian employees are being fired, and private contractor that charge more for the exact same service and are less accountable to the public are being hired. This shift away from a civilian workforce isn't just inefficient - it's also a violation of longstanding workforce management rules. That's why we are urging the Pentagon to follow the law and take appropriate action."

Hinchey and his colleagues are calling on the DoD to eliminate the cap on the number of civilian employees and embrace Total Force Management authorities. This would ensure that decisions are based on a cost-benefit analysis, as required by law, instead of arbitrary standards. The congressman is also urging faster implementation of an NDAA requirement to cap spending on service contracts at FY 2010 levels, ensuring that the cap on civilian employees is counterbalanced by a similar provision for contractors. Finally, Hinchey has asked DoD to take steps to ensure compliance with a requirement that inherently governmental functions be performed by the civilian workforce.

Cosigners of Congressman Hinchey's letter include Reps. Gary Ackerman (NY-05), Jason Altmire (PA-04), Robert Andrews (NJ-01), Joe Baca (CA-43), Tammy Baldwin (WI-02), Xavier Becerra (CA-31), Sanford Bishop (GA-02), Susanne Bonamici (OR-01), Madeleine Bordallo (GU-AL), Dan Boren (OK-02), Leonard Boswell (IA-03), Robert Brady (PA-01), Bruce Braley (IA-01), Corrine Brown (FL-03), Lois Capps (CA-23), Michael Capuano (MA-08), Russ Carnahan (MO-03), John Carney (DE-AL), Judy Chu (CA-32), David Cicilline (RI-01), Hansen Clarke (MI-13), Yvette Clarke (NY-11), William Lacy Clay (MO-01), Emanuel Cleaver (MO-05), Steve Cohen (TN-09), John Conyers (MI-14), Joe Courtney (CT-02), Mark Critz (PA-12),

Joseph Crowley (NY-07), Elijah Cummings (MD-07), Susan Davis (CA-53), Danny Davis (IL-07), Peter DeFazio (OR-04), Diana DeGette (CO-01), Rosa DeLauro (CT-03), Theodore Deutch (FL-19), Norman Dicks (WA-06), John Dingell (MI-15), Michael Doyle (PA-14), Donna Edwards (MD-04), Keith Ellison (MN-05), Eliot Engel (NY-17), Sam Farr (CA-17), Chaka Fattah (PA-02), Bob Filner (CA-51), Marcia Fudge (OH-11), John Garamendi (CA-10), Gene Green (TX-29), Raul Grijalva (AZ-07), Janice Hahn (CA-36), Colleen Hanabusa (HI-01), Alcee Hastings (FL-23), Martin Heinrich (NM-01), Brian Higgins (NY-27), Mazie Hirono (HI-02), Tim Holden (PA-17), Rush Holt (NJ-12), Michael Honda (CA-15), Steve Israel (NY-02), Jesse Jackson (IL-02), Sheila Jackson Lee (TX-18), Henry Johnson (GA-04), Marcy Kaptur (OH-09), William Keating (MA-10), Dale Kildee (MI-05), Ron Kind (WI-03), Larry Kissell (NC-08), Dennis Kucinich (OH-10), James Langevin (RI-02), Rick Larsen (WA-02), Sander Levin (MI-12), John Lewis (GA-05), Daniel Lipinski (IL-03), David Loebsack (IA-02), Nita Lowey (NY-18), Stephen Lynch (MA-09), Carolyn Maloney (NY-14), Edward Markey (MA-07), Betty McCollum (MN-04), Jim McDermott (WA-07), James McGovern (MA-03), Mike McIntyre (NC-07), Jerry McNerney (CA-11), Gregory Meeks (NY-06), Michael Michaud (ME-02), Brad Miller (NC-13), George Miller (CA-07), Gwen Moore (WI-4), Chris Murphy (CT-05), Grace Napolitano (CA-38), Richard Neal (MA-02), Eleanor Holmes Norton (DC-AL), Bill Owens (NY-23), Frank Pallone (NJ-06), Bill Pascrell (NJ-08), Gary Peters (MI-09), Collin Peterson (MN-07), Chellie Pingree (ME-01), David Price (NC-04), Charles Rangel (NY-15), Silvestre Reyes (TX-16), Laura Richardson (CA-37), Steven Rothman (NJ-09), Lucille Roybal-Allard (CA-34), Dutch Ruppersberger (MD-02), Bobby Rush (IL-01), Tim Ryan (OH-17), Loretta Sanchez (CA-39), John Sarbanes (MD-03), Jan Schakowsky (IL-09), Kurt Schrader (OR-05), Allyson Schwartz (PA-13), Robert Scott (VA-03), Jose Serrano (NY-16), Adam Schiff (CA-29), Bobby Schilling (IL-17), Louise Slaughter (NY-28), Adam Smith (WA-09), Jackie Speier (CA-12), Betty Sutton (OH-13), Bennie Thompson (MS-02), John Tierney (MA-6), Paul Tonko (NY-21), Edolphus Towns (NY-10), Niki Tsongas (MA-5), Chris Van Hollen (MD-8), Mel Watt (NC-12), Henry Waxman (CA-30), Peter Welch (VT-AL), and Lynn Woolsey (CA-06). The full text of their [letter](#) follows:

March 26, 2012

The Honorable Leon E. Panetta
Secretary of Defense
1000 Defense Pentagon
Washington, DC 20301-1000

Dear Secretary Panetta:

Thank you for your leadership of the Department of Defense (DoD) during these difficult times.

We are proud to support DoD installations that employ military, civilian, and contractor personnel who make invaluable contributions towards ensuring our national security.

We understand that the defense budget must be adjusted to take into account geopolitical changes and budgetary realities. However, under your predecessor, the "Efficiency Initiative" had a disproportionately adverse impact on civilian personnel. Under this plan, the size of the civilian workforce would be cut back to FY 2010 levels, while no comparable constraints were imposed on the contractor workforce.

The unique constraints that DoD has placed on the civilian workforce have raised concerns that managers could be prevented from using civilian employees even when they cost less or the work is sufficiently sensitive or important that it should be performed by civilian employees. Surely, we can all agree that DoD's sourcing decisions should be made on the basis of the law, cost, policy, and risk, and that it makes no sense to prevent DoD managers from using civilian employees simply because they are civilian employees.

That is why we strongly urge you to ensure that DoD complies with all sourcing and workforce management laws, both those that are longstanding as well as those that were included in the FY 2012 National Defense Authorization Act (NDAA), Public Law 112-81. Specifically, we recommend:

1. **Eliminate the arbitrary cap on the civilian workforce.** If there is work to be done and funding to pay for that work, managers should not be arbitrarily prevented from using civilian employees (10 USC 129). Commercial functions should be shifted back and forth on the basis of costs (10 USC 129a). The FY 2010 cap on the civilian workforce should be lifted so that sourcing decisions can be based on the merits, rather than arbitrary constraints. We urge you to provide the Defense Human Resources Board with the support and leadership necessary to eliminate the cap.

2. **Embrace Total Force Management.** Instead of managing civilian personnel by arbitrary constraints, we urge the Department to embrace the new Total Force Management authorities provided in the FY12 NDAA to ensure that the Department looks at its military, civilian, and contractor workforces more holistically.

3. **Cap spending on service contracts.** Until the cap on the civilian workforce is lifted, we strongly urge the Department, particularly the Comptroller's office, to comply with the FY 2012 NDAA that caps spending on service contracts at FY 2010 levels. If the Department insists on capping the civilian workforce at FY 2010 levels, a similar cap should be applied to the service contract spending levels.

4. **Conduct cost comparisons when making outsourcing decisions.** DoD cannot convert a function last performed by civilian employees to contractor performance without

conducting a formal cost comparison (10 USC 2461). We are pleased that the Department issued guidance in December in order to enhance compliance with this prohibition. We urge you to place a high priority on implementing these reforms.

5. Implement inventory of contract services. We appreciate that DoD has come to an agreement on implementing an inventory of contract services. We urge the Department to be aggressive in overcoming any procedural concerns related to the Paperwork Reduction Act and that the inventory be implemented in such a way that it allows for the identification and control of costs, including identifying and preventing over-execution of spending, as well as distinguishing base spending from Overseas Contingency Operations spending. Finally, we urge the Department to respect the conclusion reached by conferees to the FY 2012 NDAA that "the appropriate use of public-private competition is predicated on a sound planning process and the availability of accurate information, including the information that would be supplied by a compliant inventory."

6. Prohibit outsourcing of inherently governmental work. We urge the Department to comply with the FY 2012 NDAA that no inherently governmental work be privatized and that reliance on contractors for the performance of work closely associated with inherently governmental functions should be incrementally reduced. Finally, we urge the Department to adhere to the insourcing laws that were reaffirmed in the FY 2012 NDAA and make insourcing decisions on the basis of the usual criteria of the law, cost, policy, and risk, instead of arbitrary targets or constraints.

Thank you for your consideration of our views. As the Department ensures our nation's security, while adjusting to budgetary realities, it is imperative that we value and appreciate the remarkable work done by our civilian personnel. The best way we can do that is by ensuring that the Department is fully compliant with sourcing and workforce management laws.

Sincerely,

Congressman Maurice Hinchey