International Association of Machinists and Aerospace Workers

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OFFICE OF THE INTERNATIONAL PRESIDENT

April 13, 2007

Subj: Contractor Employee Pension and Medical Benefits Proposals

Ms. Ingrid Kolb
Director, Office of Management
United States Department of Energy
1000 Independence Ave., SW
Washington D.C. 20585

Dear Ms. Kolb,

Thank you for this opportunity to offer our deep concerns about the Department of Energy's contractor employee pension and medical benefits proposals. We would be very disturbed to see the resurrection of the policy proposal, first floated a year ago, that would discontinue reimbursement of costs associated with defined benefit pension plans because of the great harm it would cause our members who work for DOE contractors.

The International Association of Machinists and Aerospace Workers, AFL-CIO ("IAM"), represents over 5,500 employees of DOE contractors under seventeen collective bargaining agreements at nine locations nationwide. These highly skilled employees play a critical role in the operation and development of our nation's energy resources. They also ensure that the environmental impacts of past energy investments are appropriately controlled. Every day on the job, our members apply their skills and attention to detail to operate safely in the face of extreme hazards. They are an essential part of the success of DOE's mission at its M&O sites.

DOE's policy proposal would do serious damage to the ability of DOE contractors to compete for and retain such highly skilled employees in the marketplace. In the rest of this letter, the IAM will set out broad policy concerns with the proposal. We will then turn to some specific problems. Lastly, we will offer some principles that we believe DOE should observe in its future consideration of this subject.

<u>Broad Policy Concerns</u>

DOE contractors, like all private sector employers, must compete for the skilled employees they need to carry out their business operations. For M&O contractors, this competition largely plays out in the collective bargaining process, where they negotiate at arms-length with unions such as the IAM over compensation packages that allow them to attract and retain qualified personnel. The fact that defined benefit (DB) pension plans and medical benefit plans for active and retired employees are a prominent feature of compensation packages among large, private sector employers that employ skilled workforces – including most DOE contractors – shows that these benefit structures satisfy the needs and preferences of both companies and workers. DOE's proposal would constitute substantial Federal intervention into these successful private-sector practices, and it would distort the marketplace to DOE's own disadvantage by making DOE contractors less able to compete for highly skilled employees.

Among DOE contractors, the IAM's collective bargaining agreements provide for a wide variety of retirement benefits. Employees at some locations are covered by defined contribution (DC) retirement plans, at others they are covered by single employer DB pension plans or multi-employer DB plans. Many IAM-represented employees are covered by more than one plan. Likewise, health benefits for IAM-represented employees of DOE contractors vary with respect to benefit design, employee cost-sharing, etc. Since these agreements are locally-bargained, they are able to reflect the particular needs and concerns of the local workforces, within the standards set by the Department for reasonableness and allowability. The Department's proposed policy would radically diminish the ability of DOE contractors to tailor benefit packages in collective bargaining, upsetting this carefully crafted pattern. By forcing all contractors to adopt benefit programs that offer different benefits to members of the same workforce, the policy would generate substantial internal discord within the workforce.

We believe that the proposed policy, if implemented would not only prove counter-productive to DOE's mission, by eliminating the flexibility that private sector bargaining parties need to craft appropriate compensation structures, but it would also set damaging precedents for other areas of federal contracting and the private sector more broadly. It has only been eight months since Congress approved and President Bush signed the Pension Protection Act of 2006 into law. The stated goal of that sweeping pension reform was to strengthen private sector DB plans. The Department's proposed policy would directly contradict the will of Congress and the Administration in that regard.

Our members, along with the vast majority of U.S. workers, highly value guaranteed retirement benefits. As a public policy objective, the establishment and continuation of private sector DB pension plans has historically been promoted by the Federal government, in part, by permitting private contractors to receive reimbursement for the cost associated with maintaining such plans. DB plans are widely supported because they are particularly effective at providing benefits that allow workers to enjoy a measure of financial security in retirement. The Department's proposed policy, if implemented, would send an unmistakable message to the private sector workforce: "The Federal government sees no value in DB pension plans for you." The Federal workforce rightly enjoys the security of a DB pension plan as part of their compensation package. Workers in the private sector should have the opportunity to enjoy a similar measure of security as those in public service.

Specific Problems with DOE's Policy Proposal

Aside from these broad objections to the Department's proposal, we have many specific concerns about the impacts this poorly designed policy would have within the DOE contractor workforce. In the interest of brevity, we focus here on four particular concerns.

- **Freezing out newly hired employees can drive up pension costs, rather than reducing them.** As any actuary knows, there are risks to depriving a DB pension plan of new entrants. As the age profile of a plan increases, the cost of funding benefits under the plan goes up as well. The Department's proposal to freeze out newly hired employees from DB plans, forcing them into DC plans, will drive benefit costs at contractors up, not down, contrary to DOE's stated concern.

- **Discriminatory treatment of hourly employees.** The Department's proposal calls for a blanket prohibition on plan amendments that "augment or potentially augment in any way" benefits in an existing DB pension plan. Such a prohibition would result in a decline in the real value of pension benefits for many hourly employees, with salaried employees of DOE contractors suffering no such reduction. The reason for this owes to the different structure of benefit formulas in some plans that cover hourly workers (so-called flat-dollar benefit plans), as compared with those that are more common for management and salaried personnel (final pay plans). In a final pay plan, retirement benefits automatically increase in line with salary increases, even without a plan amendment. Flat dollar plans, however, are periodically amended to ensure that pension benefits keep up with increases in the cost of living and pay. The blanket prohibition on plan amendments proposed by the Department, over time, would steadily erode the adequacy of pension benefits for hourly employees, even as the real value of benefits for management and salaried personnel are maintained.

- **Other ways to address volatility concerns.** The rationale offered by the Department for a blanket ban on participation in defined benefit pension plans for new hires, is the "volatile funding" associated with DB plans. But pension experts understand that factors such as pension plan design and investment strategy can significantly impact funding volatility. By opting for the blunt instrument of cutting off reimbursement for DB pension costs for new hires, the proposed policy not only will have no effect on the funding volatility associated with existing benefit liabilities, it leaves unexplored other, less drastic alternatives for reducing volatility while still preserving defined benefits for employees.

- **Disregard for the difference between Single-Employer and Multiemployer DB plans.** The proposal makes no distinction between funding of multiemployer DB plans and single-employer DB plans. All DB plans are not created equal. In fact, multiemployer DB plans can function, for funding purposes, just like defined contribution plans, while still offering secure, known retirement benefits to employees. For instance, the IAM National Pension Fund's National Pension

Plan, a multiemployer DB plan established for IAM members is sufficiently funded such that it has no withdrawal liability. Therefore, the only funding obligation a contributing employer has to the fund is the predictable hourly cost it has negotiated for in collective bargaining. This cost is defined and known in advance for the duration of the collective bargaining agreement. The Department's failure to acknowledge this important fact makes us question whether this omission is simply a glaring oversight, or whether it reveals a motive behind the Department's proposed policy of eliminating defined benefit pensions of any sort, regardless of the actual funding volatility associated with a particular plan.

Principles That Should Inform DOE's Further Deliberations

The materials that DOE has issued thus far have little detail or supporting documentation. While we disagree with the general policy direction as indicated in the policy proposal, it is difficult to make a detailed response in the absence of real data. As DOE proceeds, however, the IAM believes that the following principles should be observed.

- **DOE should observe neutrality between DB and DC pension plans.** As noted above, Congress recently passed the Pension Protection Act of 2006, and the President signed it into law. That Act set national policy regarding the continuation and strengthening of DB pension plans. DOE should not contravene Congress and the President by trying to force contractors to cut back on the benefits and use of DB plans in favor of DC plans.

- **DOE should allow private-sector competitive processes to work.** The labor pool for many highly skilled job classifications is aging rapidly, and competition among private-sector companies for skilled workers will grow more intense. DOE should not hobble its contractors by putting Federally-imposed constraints on their ability to offer competitive wage and benefit packages.

- **DOE should not intervene in the collective bargaining process.** In proposing restrictions on the benefits that its contractors can offer to employees, DOE would be putting its thumb on the scales of collective bargaining. But the essence of collective bargaining is that it is conducted at arms-length in a competitive environment. DOE should preserve that environment, not cut back on it.

In closing, we believe that the appropriate way to address issues of compensation is not through heavy-handed Federal policy, but rather, at the negotiating table. For it is only through arms-length bargaining, free from interference that employers and employees can resolve issues of mutual concern in a manner that balances all parties' considerations. We hope that the Department will embrace this notion and avoid proposals that would inappropriately interfere with the collective bargaining process.

Once again, thank you for the opportunity to share our serious concerns about the Department's contractor employee pension and medical benefits proposals. The IAM reserves the right to supplement these comments in response to DOE's notice in the Federal Register. Should you have any questions about these comments, please do not hesitate to contact me or Beth Almeida, Assistant Director of Strategic Resources at (301) 967-4767.

Sincerely,

R. Thomas Buffenbarger

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INTERNATIONAL PRESIDENT

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