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To: Senator Shaheen
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June 3rd, 2021

Cc: IFPTE Local 4 Bargaining Unit

Subj: Refusal of Portsmouth Naval Shipyard to Implement President Joe Biden Executive Order 14003 "Protecting the Federal Workforce."

Ref: (1) OPM Memorandum; Kathleen M. McGettigan; March 5th, 2021.
(2) Proposed Memorandum of Understanding between IFPTE Local 4 and Portsmouth Naval Shipyard; May 5th, 2021.
(3) Executive Order 14003; January 22nd, 2021
(4) Collective Bargaining Agreement 2014-2020
(5) Collective Bargaining Agreement 2020-2023
(6) Federal Service Labor-Management Relations Statute
(7) E-Mail from Human Resource Office to Portsmouth Naval Shipyard Management

Senator Shaheen;

IFPTE Local 4 Union represents approximately two thousand (2,000) Federal Employees at Portsmouth Naval Shipyard. Our highly skilled Engineers, Engineering Technicians, and other Professionals are dedicated to the repair and overhaul of the U.S. Navy's fleet of submarines. The employees we represent reside in the States of Maine, New Hampshire, & Massachusetts.

On January 22nd, 2021, President Biden issued Executive Order 14003; "Protecting the Federal Workforce." The purpose of this Executive Order was to roll back Executive Orders 13836, 13837, & 13839 of the previous administration.

On March 5th, 2021 Kathleen McGettigan, Acting Director of the Office of Personnel Management, issued a memorandum (*see reference 1*) which provided guidance for Federal Agencies like Portsmouth Naval Shipyard on Implementing Biden's Executive Order 14003 "Protecting the Federal Workforce." In this memorandum, she stated that:

"To the extent affected agencies successfully renegotiated any CBA provisions intended to implement any requirement of EO 13836 and (e.g. collective bargaining procedures, ground rules, permissive bargaining, etc.), agencies must identify those provisions and, as appropriate and consistent with applicable law and the policy articulated in EO 14003, engage impacted unions, as soon as practicable, to suspend, revise, or rescind the actions covered in these CBA provisions."

While the Shipyard has teams of full time Attorneys and numerous full time Labor Relations Employees at their disposal, IFPTE Local 4 does not have enough Official Time to support even 1 full time Representative for sum two thousand (2,000) bargaining unit employees. We are seeking restoration of the Official Time allowed under Article 3 of our previous contract,

so we can properly represent our members, (*see reference 4*); as directed by Biden's Executive order, and the direction from Kathleen McGettigan who stated in her memo:

*“Affected agencies **shall**, as appropriate and consistent with applicable law and the policy articulated in EO 14003, and as soon as practicable, **suspend revise or rescind the actions covered in any agency policies**, if applicable implementing requirements pursuant to sections 4(b) and 5(b) of EO 13837.”*

“To the extent affected agencies successfully renegotiated any CBA provisions intended to implement requirements of sections 4(b) and 5(b) of EO 13837 (e.g. official time approval procedures, etc.), agencies must identify those provisions and, as appropriate and consistent with applicable law and the policy articulated in EO 14003, engage impacted unions, as soon as practicable, to suspend, revise, or rescind the actions covered in these CBA provisions.”

She further clarifies these remarks in footnote 3:

[Footnote 3] *“To the extent agencies were complying with the terms of an expired CBA immediately prior to implementing any EO 13837 requirements, **agencies must revert to prior practices until a new agreement is negotiated with the union.**”*

Because Former President Trump's Executive Orders 13836, 13837, and 13839 had significantly influenced the parties bargaining table strategy and decision making when the current Collective Bargaining Agreement (CBA) was implemented and because the parties were operating under an expired Collective Bargaining Agreement prior to the implementation of these EOs, Biden's EO 14003 requires Portsmouth Naval Shipyard to re-negotiate virtually the entire 2020 CBA.

In order to facilitate the process of implementing EO 14003, and negotiating the CBA, IFPTE Local 4 presented a Memorandum of Understanding (*see reference 2*) to Portsmouth Naval Shipyard On May 5th, 2021. Our current CBA Article 35 Section 2 also directs the parties to promulgate changes to the Parties agreement as a result of Presidential Executive Orders (i.e. EO 14003).

The current 2020 CBA significantly harms the 2000 Bargaining Unit members. Some, but not all of the issues are:

- Article 3 Rights of Employees: Curtails our Bargaining Unit members and Union Representatives' ability to freely communicate our views to Congress. It also reduces the ability to of Members to be covered by the CBA while an employee is on a detail or temporary assignment.
- Article 4 Union Representation: Significantly curtails Union official time to a pool of hours equal to less than one (1) Full time representative when previously we had five (5) Full time Officers and a pool of official time hours for Stewards' (or other representatives')

use. In addition, our ability to meet privately with employees to discuss their issues was eliminated in the current CBA.

- Article 5 Provisions of Laws and Regulations: Curtails permissive bargaining as mandated in EO 14003.
- Article 6 Appropriate Matters for Bargaining: Curtails permissive bargaining as mandated in EO 14003.
- Article 7 Negotiated Grievance Procedure: Instead of streamlining the procedures this Article frustrates the ability for employees and the Union to adjudicate disputes. For example, Alternate Dispute Panels (ADR) are regulated by a panel of 2 Managers to 1 Union employee which clearly skews any decisions in Management's favor. (*see reference 7*).
- Article 9 Arbitration: Official Time is prohibited for Union Representatives to prepare and pursue grievance and take these disputes to Arbitration while Management will be paid (GS-13 thru SES salaries) to represent the Shipyard in these proceedings. This Article also frustrates instead of streamlines the Arbitration process.
- Article 16 Sick Leave: Employees may be forced to procure medical proof (on their time and expense) for any and all sick leave taken even if the employee, for example, has a common cold. This is contrary to past Bargaining Agreements, as well as normal OPM sick leave guidance, which would not require medical certification for sick leave that is not an excess of three (3) days.
- Article 29 Safety and Health: Eliminates reimbursement for certain safety equipment. Due to the industrial nature of our work these items are very costly and are required to be used when in industrial areas of the Shipyard. Employees have been disciplined for not wearing proper safety equipment and now the cost burden has been unnecessarily shifted to the employee.
- Article 34 General Provisions and Services: Management was prevented from negotiating to our Union Hall and Union Offices. This article also restricts the Unions involvement in office moves, allows Management to hand select employees for Shipyard committees without our approval, and deploys broad brush language to allow Management, at will, to change employees' shifts and determine who travels for work purposes.
- Article 35 Duration and Change: Management essentially initiated a "Clean Slate" negotiating tactic that eliminated numerous mid-term Memorandums of Understanding (MOUs). Some of these vital MOUs have been replaced by nebulous CBA language that leaves issues entirely up to Management's discretion.
- Article 37 Telework: The language of the article does not confirm to Public Law 106-346, 359 of October 23, 2000 and Public Law 111-292 of December 9, 2010. For years, PNS

has not adopted the language of the telework laws and has significantly resisted (until COVID-19) allowing telework for PNS employees.


To date, Portsmouth Naval Shipyard Management has fundamentally ignored our request to renegotiate our CBA in accordance with EO 14003. This is a blatant attempt to maintain the Agency's advantage and control over the federal workforce, and to delay the implementation of a contract favorable to the Federal Employee.

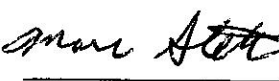
Portsmouth Naval Shipyard Management has been gaming the system by stalling. They are very much aware that the Federal Labor Relations Authority is backlogged with over 500 Unfair Labor Practices (ULPs) to dispute any allegations of bad faith bargaining we may allege thru the ULP Process. Because the Grievance and Arbitration articles are so skewed in Management's favor, we cannot utilize these articles to prosecute a Union Grievance over failing to bargain or bargain in good faith implementing EO 14003. In essence the Agency knows we have zero administrative recourse to quickly resolve this matter. The Agency is purposely stalling as long as they can to implement EO 14003. There appears to also be several anti-union amici in the senior leadership of this Shipyard that has and continued to hamper any partnership or real improvement to Management and Labor relations (*see reference 7*).


In our service to your constituents, we respectfully ask your assistance to:


1. Take any action within the purview of your authority to compel Portsmouth Naval Shipyard to comply with Executive Order 14003.
2. Conduct a Congressional Investigation to identify the deliberate stall tactics preventing IFPTE Local 4 from renegotiating its collective bargaining agreement with Portsmouth Naval Shipyard.
3. Appoint a member of the Legislative Branch to oversee the implementation of EO 14003 at Portsmouth Naval Shipyard and to liaison with our Union to resolve all associated matters as quickly as possible.
4. Take any action deemed just and fair.

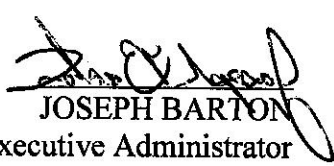
Respectfully Submitted;


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