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January 20, 2022

Honorable Alejandro Mayorkas  
Secretary, Department of Homeland Security  
Washington, DC 20528

Dear Mr. Secretary:

I am writing to request that you make certain to include in the Department's FY 2023 budget request funding for General Schedule-equivalent salaries for Transportation Security Officers (TSOs). I am also requesting that you clarify for Administrator Pekoske that expanding collective bargaining rights for TSOs does *not* require specific appropriations from Congress—contrary to recent assertions he made to AFGE—and direct him to sign your approved version of his draft Determination on Collective Bargaining without further delay. We thank you for your letter of December 23, 2021, which outlines efforts you have taken on behalf of TSOs who work in the Transportation Security Administration (TSA) to improve working conditions such that they become more consistent with the standards that apply to title 5 employees of the federal government. We greatly appreciate your efforts so far on behalf of TSOs concerning due process protections.

As you know, despite the progress made on due process, low pay remains the number one issue for TSOs. Thus, we have been very frustrated and disappointed with the position being taken by senior TSA management that seems to be designed to stymie any progress in this regard. We have reviewed Administrator Pekoske's September 8, 2021 "Information" memo entitled "TSA Workforce Compensation Issues" and its Attachments A, B and C. It is clear from this that TSA has no intention of using its considerable administrative discretion to improve TSO pay, contrary to your directive. Indeed, the memo makes a mockery of your instructions to the Administrator with regard to General Schedule pay by asserting a cost estimate that is preposterously expensive.

Administrator Pekoske's memo and the accompanying attachments contain many assumptions that we strongly dispute. The various attachments meander between a discussion of pay for TSOs and pay for all TSA employees. Rather than focusing solely on TSOs, which are represented by AFGE, these attachments seem to incorporate undefined budgetary estimates applying across TSA. Perhaps most telling is Attachment B, which seems designed to deliver the coup de grace to increased TSO pay and expanded collective bargaining rights for the foreseeable future by asserting that almost 1,000 additional employees will be required to implement full title 5 collective bargaining and due process rights, and estimates that between the additional positions allegedly needed and the "pay adjustments" (which appear to include all of TSA – not just TSOs) that an additional \$1.1 billion will be required in the first year, culminating in the need for almost \$8 billion in additional budgetary resources over the FYHSP.



If ever an attempt to scuttle title 5 pay and collective bargaining rights for TSOs was delivered, this is it.

In fact, on page 4 of Attachment A in discussing Section 525 of the FY 2021 DHS Appropriations Act, TSA effectively asserts that it will not move ahead to implement GS level pay for TSOs until it receives Congressional approval by having Congress appropriate the *full amount* of the so-called budgetary estimates. Administrator Pekoske's memo of September 8, 2021 openly acknowledges that "TSA can implement pay changes within 60 days of the receipt of appropriations as recommended in the plan". More recently, the Administrator also informed AFGE that it would not move forward with your directive to expand collective bargaining rights, either, without the *full amount* of the so-called budgetary estimates.

If this means that TSA has no intention of using its broad authority to do anything with respect to TSO pay absent Congressional approval, then we ask that you intervene to make sure that DHS and TSA make a reasonable, reality-based request for appropriations to cover the modest costs associated with a GS-pay equivalent system for TSOs. Consistent with your June 3 memo, we also ask that you direct the Administrator to implement the new Determination on Collective Bargaining regardless of future appropriations.

We are not suggesting that there will be no need for additional resources to implement your instructions to the Administrator. However, using inflated cost estimates to justify inaction is unacceptable. Please know that there is no restriction in the ATSA that would constrain use of the Administrator's authority to improve TSO pay. Ironically, TSA was allegedly granted broad pay-setting authority in its enabling statute to meet the important needs of maintaining airport security, and now that we are asking you to exercise that authority in a way that comports with your instruction to the Administrator, we are being told it cannot be done without Congressional approval.

As discussed above, we have very serious doubts about the accuracy or realism of TSA's budgetary estimates of the cost of raising TSO pay. At best, those estimates are muddled by the additional costs of raising pay throughout TSA as well as estimates of additional positions for TSA that strain credulity.

We have reviewed the documents provided, and as a result of this review, we concluded an insufficient basis of estimate (BOE) was provided to support TSA assertions of budgetary effect. Accordingly, on September 22, 2021, the President of AFGE Council 100, representing TSOs, filed a request for information (RFI) asking for the documents used in preparing Administrator Pekoske's estimates. Today, nearly four months later, we have still not received a response to what should be an almost routine request.


TSA's September 2021 "budget estimate" is radically at odds with many previous cost estimates for moving the TSA screening workforce to title 5 pay under the General Schedule. To better understand how TSO pay figured into the budget estimates provided, and to learn more about the

BOE used in developing those estimates, I attach a copy of AFGE's September 22, 2021 RFI and ask again for a response.

But in the meantime, as President Biden prepares his budget request for FY 2023, it is of the highest importance that DHS include a realistic estimate for funding for General Schedule-equivalent TSO pay as part of the Department's FY 2023 budget request. We urge you to separate out the cost of providing TSOs GS-equivalent salaries and refrain from combining this request with any other initiative for TSA. We also urge you to direct Administrator Pecoske to implement your approved draft of his Determination on Collective Bargaining—which can easily be accomplished with TSA's current resources—immediately and without regard to future appropriations.

Thank you for your time and consideration of this extremely important matter. I am available to discuss further at your convenience and to answer any questions you may have. I can be reached through my assistant, Carolyn Carter, at 202-639-6455.

Sincerely,

  
Everett B. Kelley  
National President

cc: David Pecoske, TSA Administrator