The Honorable Maurice Hinchey  
U.S. House of Representatives  
Washington, DC 20515

Dear Representative Hinchey:

Thank you for your letter of March 26, 2012, co-signed by 130 of your colleagues, to Secretary of Defense Leon E. Panetta regarding the Department of Defense’s (DoD) workforce shaping and Total Force Management considerations. Within the Department, oversight for Total Force Management falls under the purview of the Under Secretary of Defense for Personnel and Readiness, and I am responding on behalf of Secretary Panetta.

The Secretary and I share your belief that the Department’s sourcing decisions must be made on the basis of law, cost, policy and risk. The fiscal year (FY) 2013 budget reflects a balanced workforce that decreases spending on military personnel, civilian full-time equivalents, and contracted services. It reflects our best judgment today, representing a carefully coordinated approach based on our strategy and policy, balancing operational needs and fiscal reality.

With regards to the specific recommendations made:

1. **Eliminate the arbitrary cap on the civilian workforce** – The direction to hold the US direct hire civilian workforce at FY2010 levels, with some exceptions, was made in conjunction with organizational assessments and mission/function prioritization, reflecting the Department’s commitment to challenge workload requirements and more appropriately size its workforce to meet our most pressing and critical priorities. This decision was made to focus the Department on reducing overhead/administrative functions associated with headquarters staff and realigning resources to war-fighting capability, force structure recapitalization, and unit readiness. Since the direction to hold to FY2010 levels was given, exceptions have been granted across the Department on a case by case basis where justified by workload or other specific rationales. These include shipyard and security guard workforces in the Navy; the test and evaluation workforces in the Army and Air Force; joint basing requirements for the Navy and Air Force; in-sourcing of contracted services at some Combatant Commands and Defense Agencies; medical readiness and health care needs across the military health system; improved financial and audit readiness capabilities throughout the Department; and continued recapitalization and sustainment of the Defense acquisition workforce.

The Department recognizes that even during this time of constrained defense budgets, we must ensure that we have a sufficient number of civilian personnel to meet the support needs of our military forces. We must also be sure that military or civilian employees are performing all inherently governmental jobs, and that sufficient levels of
civilian employees are available to perform critical oversight, management, and readiness functions of the Department. At the same time, we need to make every effort to reduce our support requirements by streamlining our operations and eliminating lower priority tasks. In order to strike the right balance between reducing support and providing adequate numbers of civilian personnel, the Department is maintaining the management targets for the civilian workforce with a waiver process that will provide DoD organizations the needed flexibility to meet their missions. As part of this flexibility, the Defense Human Resources Board, which met most recently in February and has Department-wide senior leadership support, will be a key decision making body to promote improved Department-wide Total Force Management, through the improved alignment of statutes, policy, business practices, information technology, and resources.

2. Embrace Total Force Management – The Secretary and I, along with the rest of the Department’s senior leadership, are committed to promoting and facilitating improved Department-wide Total Force Management. Consistent with long-standing statutory requirements, as well as the changes included in the National Defense Authorization Act (NDAA) for FY 2012, the Department must continue to deliver a balanced, flexible, responsive workforce that: is the appropriate mix of military, civilian, and contracted support; mitigates risk, ensures continuity of operations, and promotes an organic knowledge base; and ensures mission requirements are met most cost effectively and efficiently. The Department remains committed to meeting its statutory obligations to annually review missions, functions, and workforce composition (including reliance on and appropriateness of contracted services) and to ensure the workforce is appropriately balanced and aligned to our most critical priorities.

3. Cap spending on service contracts – The Department is committed to complying with and implementing Congressional direction, in section 808 of the FY2012 NDAA, to limit aggregate spending on service contracts. Guidance – developed jointly by my office and the offices of the Under Secretary of Defense, Comptroller (USD(C)) and the Under Secretary of Defense for Acquisition, Technology, & Logistics (USD(AT&L)) – has been prepared for signature by the Deputy Secretary of Defense to comply with section 808. This guidance will limit total obligations for contracted services, directing that they do not exceed FY2012 enacted levels and for FY2013, the budget request. Additionally, guidance issued by the Deputy will direct that any instance of inherently governmental work found to be performed under contract be immediately in-sourced to government performance or divested, and that Components reduce obligations for staff augmentation contracts and contracts for the performance of functions closely associated with inherently governmental functions by 10 percent in FY2012 and FY2013.

4. Conduct cost comparisons when making outsourcing decisions – The Secretary and the Department’s senior leadership are committed to ensuring adherence to the current restrictions regarding the outsourcing of any work performed by, or designated for performance by, civilian employees. In addition to the December guidance referenced in your letter that reiterated the statutory prohibitions against directly converting work to contract performance, I issued guidance in March regarding the ongoing statutory moratorium on conducting public-private competitions (cost comparisons). Such
competitions can be a useful tool for workforce shaping, achieving efficiencies, and improving business processes, but improvements must be made to the process to ensure it is more equitable, less time consuming, and minimizes disruptions to the workforce. Consistent with our June 2011, report to Congress and changes enacted by the FY2012 NDAA, the Department is committed to making such improvements while also improving overall accountability and visibility of contracted services via the Inventory of Contracts for Services (ICS) – these reforms are critical to lifting the current restrictions on public-private competition (cost comparisons) under section 2461 of title 10.

5. Implement inventory of contracts for services – The Department continues to make progress to fully comply with the requirements of the ICS. Together with the Acting USD(AT&L), I sent a plan to the Congress in November that identified both short- and long-term actions that will improve the ICS and make it a more reliable and complete data set. This plan was predicated, in part, on an emergency waiver to the Paperwork Reduction Act submitted to the Office of Management and Budget (OMB). While OMB has not granted the emergency waiver, the Department has proceeded with a standard waiver request, continues to press forward, and will submit the annual ICS in June as required by statute. As Secretary Panetta stated to the Chairman and Ranking Member of the House Armed Services Committee in December, we are continuing our efforts to strengthen the relationship between the ICS and the budget justification materials. The FY2013 budget guidance to the Components required budget estimates to be informed by the FY2010 ICS. Additionally, together with the USD(C), we continue to look for ways to improve the way we report the contract services information in our budget justification material. To that end, we are considering solutions with OMB to better align the contracting information in the Federal Procurement Data System with the object class information in our accounting systems.

Our priorities with regard to contracted services include continuous and measurable improvements to the ICS; a deliberate and comprehensive review process to ensure appropriate alignment of workload and prevent overreliance on contracted services; increased granularity in budget justification materials; and implementation of control mechanisms to preclude over execution of budget amounts. These have been highlighted by the Congress as critical to improve our resource stewardship. While we appreciate the value of the A-76 public-private competition process as a tool to help shape the Department’s workforce, until we can fully understand the extent and scope of contracted services reliance as a component of the Total Force, further conversion of internally performed work to contract performance is not in the Department’s best interests at this time.

6. Prohibit outsourcing of inherently governmental work – The Department remains committed to its statutory obligations under title 10 to annually review contracted services and ensure appropriate performance of functions that are inherently governmental, closely associated, or otherwise exempted from private sector performance (to mitigate risk, ensure continuity of operations, build internal capability, meet and maintain readiness requirements, etc). Contracted services that meet the necessary criteria should be immediately in-sourced to government performance or, if of low priority, be divested. In accordance with title 10 requirements, including changes made
by the FY2012 NDAA, the Department has, and will continue to, use in-sourcing as a shaping tool to rebalance the workforce and re-align work from contract performance.

If you, or your staff, are interested in learning more about Total Force Management, and our implementation of the sourcing and workforce management considerations in title 10 of United States Code and the FY2012 NDAA, we would be happy to provide additional information.

Thank for you for your continued support of our men and women in uniform, and the dedicated civilian workforce that supports them.

Sincerely,

Jo Ann Rooney
Acting
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,

[Signature]

[Signature]
Sanger

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Signed by the following 131 Members of Congress:

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